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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 4

THE EIGHTY-FIFTH DAY—THE ONE HUNDRED AND ELEVENTH DAY

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THE EIGHTY-FIFTH DAY

CARSON CITY (Monday), May 2, 2011

Senate called to order at 11:16 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Eternal God,

Grant to the members and officers of this body a sacred moment of quiet before they take up the duties of this day. Let them not think, when this prayer is said, that their dependence on You is over and forget Your counsels for the rest of the day.

Rather from these moments of holy quiet, may there come such a sweetness of disposition that all may know that You are in this place.

So help us all this day through Your presence.

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 Assembly Bills Nos. 32, 296, 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 Assembly Bills Nos. 62, 203, 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 Assembly Bill No. 220, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MO DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 75, 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 Health and Human Services, to which were referred Assembly Bills Nos. 295, 319, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 91, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 28, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 8.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

SECOND READING AND AMENDMENT

Assembly Bill No. 33.

Bill read second time and ordered to third reading.

Assembly Bill No. 55.

Bill read second time and ordered to third reading.

Assembly Bill No. 121.

Bill read second time and ordered to third reading.

Assembly Bill No. 211.

Bill read second time and ordered to third reading.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 2, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 9.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 9—Memorializing Nevada's first Acupuncturist, Dr. Yee Kung Lok.

WHEREAS, As late as December 1972, the practice of acupuncture was considered in Nevada to be "not sufficiently well understood to be an acceptable method for use in the practice of medicine in this State"; and

WHEREAS, The Nevada Legislature became the first in the nation to declare traditional Chinese medicine, including acupuncture, a learned profession when Senate Bill No. 448 of the 1973 Session, authorizing the practice of Chinese medicine and acupuncture, was signed into law on April 20, 1973, and many states thereafter followed suit; and

WHEREAS, Credit for this unprecedentedly quick change in the status of the profession largely belongs to Dr. Yee Kung Lok, who worked tirelessly for this cause; and

WHEREAS, Yee Kung Lok was born in Shanghai, People's Republic of China, on June 17, 1913, to Lok King Qu and Wong Ming Chien and studied Chinese medicine and acupuncture in Shanghai as a disciple; and

WHEREAS, In 1973, Dr. Lok came to Nevada with the ambition to legalize the practice and, along with Arthur Steinberg, a patient he had treated in Hong Kong, and lobbyist Jim Joyce, began the arduous process of attaining this goal; and

WHEREAS, In the ultimate illustration of the adage that seeing is believing, Dr. Lok conducted a demonstration of acupuncture in the spring of 1973, in a clinic in the Ormsby House hotel and casino across the street from the Legislative Building; and

WHEREAS, Half of Nevada's 60 lawmakers and countless members of the public put themselves under the needles of Dr. Lok during this demonstration, and with assistance from only his wife, he treated more than 100 patients every day for 3 weeks; and

WHEREAS, The great majority of those patients claimed improvement, with some announcing astonishing results, such as an Assemblyman who reported that a 20-year sinus condition disappeared after needles were stuck in his forehead and alongside his nose; and

WHEREAS, Although one of those receiving treatment professed he "would follow him to Hong Kong," Dr. Lok graciously chose to settle in this State to continue helping Nevadans needing relief from their ailments and established a successful practice; and

WHEREAS, With the passing of Dr. Yee Kung Lok in Las Vegas on January 17, 2004, Nevada lost one of its most forward-thinking leaders in the field of medicine; and

WHEREAS, He is survived by his wife, Chien Ching Lok, their children and spouses Maria Ming Chu Pan and her husband Wei Pan, Dr. Peter Pak Ming Lok and his wife Merle Lok and Lucy Ming Wei Cheung and her husband Chiu Ming Cheung, as well as grandchildren Farrowe and Gerrine Pan, Henry Junwen Lok, Angela Meiwen Lok, Amanda Meihui Lok, Alvin Yao Wen Cheung and Anthony Yao Fang Cheung; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That members of the 76th Session of the Nevada Legislature note with admiration this awe-inspiring man's life and, with sorrow, this great loss; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to Dr. Lok's wife, Chien Ching Lok.

Senator Breeden moved the adoption of the resolution.

Remarks by Senator Breeden.

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

It is an honor to rise today to make a few remarks about the late Dr. Yee-Kung Lok, a man who helped pioneer Chinese medicine in the State of Nevada.

In 1972, Dr. Lok was recruited by Arthur Steinberg to help get the State of Nevada to legally recognize Chinese medicine. Dr. Lok, Steinberg, and lobbyist Jim Joyce convinced the legislature to allow a special demonstration of acupuncture.

For three weeks, Dr. Lok treated over 100 people a day in Carson City to demonstrate the healing properties of acupuncture. Due substantially to the hard work and demonstrations of Dr. Lok during the 57th Session of the Nevada Legislature, Senate Bill No. 448 of the 57th Legislative Session, legalizing Chinese medicine, was introduced. It was passed by the Legislature and was approved on April 19, 1973, by Governor Mike O'Callaghan.

Dr. Lok stated, "In 1973, I came to Nevada with a big dream. In April of 1973, that dream came true; Nevada became the first state to accept Chinese medicine as a learned medical profession." The contents of that bill can now be found in Chapter 634A of the Nevada Revised Statutes.

At the time, Dr. Lok's demonstrations and Nevada's legislative approval of Chinese medicine made both statewide and national headlines. What started in Carson City as a series of demonstrations by Dr. Lok has grown into a widespread legal acceptance of Chinese medicine.

Today, 34 states and the District of Columbia currently recognize Chinese medicine in their statutes and the practice of acupuncture is widely recognized as an effective treatment option.

Those Nevadans who have found healing through acupuncture have Dr. Lok's dedication and skill in 1973 to thank. Nevada's increasing Asian population and the expanding acceptance of Chinese medicine ensure that although Dr. Lok is no longer with us, his legacy lives on in the healing of ailing Nevadans.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

GENERAL FILE AND THIRD READING

Assembly Bill No. 12.

Bill read third time.

Roll call on Assembly Bill No. 12:
YEAS—21.
NAYS—None.

Assembly Bill No. 12 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 18.

Bill read third time.

Remarks by Senators Brower and Roberson.

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

SENATOR BROWER:

I would appreciate it if someone could give us a summary of this bill and to explain what this bill does.

SENATOR ROBERSON:

Assembly Bill No. 18 reenacts statutes related to meetings of the State Board of Parole Commissioners. The bill prohibits the Board from denying parole unless a prisoner has been given notice of the Board meeting and an opportunity to be present, and requires the Board to allow prisoners or their representatives to speak. The measure also requires the Board to provide written notice of its final decisions concerning parole within ten working days after a hearing and, if parole is denied, specific recommendations to improve the possibility of being granted parole, if any.

This measure reenacts provisions of the Nevada Revised Statutes that the United States District Court of Nevada permanently enjoined the State from enforcing in the matter of American Civil Liberties Union (ACLU) of Nevada v. Masto, in 2008. Testimony indicated that these particular provisions are not directly related to the issues in that case. This bill is intended to express the intent of the Legislature that these provisions continue to apply.

Roll call on Assembly Bill No. 18:
YEAS—21.
NAYS—None.

Assembly Bill No. 18 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 83.

Bill read third time.

Roll call on Assembly Bill No. 83:
YEAS—21.
NAYS—None.

Assembly Bill No. 83 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 97.
Bill read third time.
Roll call on Assembly Bill No. 97:
YEAS—21.
NAYS—None.

Assembly Bill No. 97 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

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

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

Assembly Bill No. 125.
Bill read third time.
Roll call on Assembly Bill No. 125:
YEAS—21.
NAYS—None.

Assembly Bill No. 125 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 142.
Bill read third time.
Remarks by Senators Brower, McGinness and Roberson.
Senator Brower requested that the following remarks be entered in the Journal.

SENATOR BROWER:
I would like an explanation on this bill.

SENATOR MCGINNESS:
Assembly Bill No.142 changes the threshold, expressed in terms of the amount of money or value misappropriated, stolen, or taken, between lesser and greater property crimes. The bill amends the penalty provisions for various property crimes, including accepting a kickback; fraud against an innkeeper; fraud in the course of an enterprise or occupation; etc.
In general, the bill changes the threshold between a misdemeanor and a gross misdemeanor, or between a misdemeanor and a category C or D felony, from $250 to $650. It also changes certain thresholds between a category B felony and a lesser felony from $2,500 to $3,500.

SENATOR ROBERSON:
When we heard this bill it made a lot of sense to look at some of the dollar amounts that had been in place for decades. This reflects the increase in inflation and cost of living since then.

Roll call on Assembly Bill No. 142:
YEAS—21.
NAYS—None.

Assembly Bill No. 142 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 147.
Bill read third time.
Roll call on Assembly Bill No. 147:
YEAS—21.
NAYS—None.

Assembly Bill No. 147 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 156.
Bill read third time.
Roll call on Assembly Bill No. 156:
YEAS—21.
NAYS—None.

Assembly Bill No. 156 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 166.
Bill read third time.
Roll call on Assembly Bill No. 166:
YEAS—21.
NAYS—None.

Assembly Bill No. 166 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 168.
Bill read third time.
Roll call on Assembly Bill No. 168:
YEAS—21.
NAYS—None.

Assembly Bill No. 168 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 174.
Bill read third time.

Roll call on Assembly Bill No. 174:
YEAS—21.
NAYS—None.

Assembly Bill No. 174 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 217.
Bill read third time.
Roll call on Assembly Bill No. 217:
YEAS—21.
NAYS—None.

Assembly Bill No. 217 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 250.
Bill read third time.
Roll call on Assembly Bill No. 250:
YEAS—21.
NAYS—None.

Assembly Bill No. 250 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 261.
Bill read third time.
Roll call on Assembly Bill No. 261:
YEAS—21.
NAYS—None.

Assembly Bill No. 261 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 262.
Bill read third time.
Roll call on Assembly Bill No. 262:
YEAS—21.
NAYS—None.

Assembly Bill No. 262 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 348.
Bill read third time.

Roll call on Assembly Bill No. 348:
YEAS—21.
NAYS—None.

Assembly Bill No. 348 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 464.

Bill read third time.

Roll call on Assembly Bill No. 464:
YEAS—21.
NAYS—None.

Assembly Bill No. 464 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

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 Dr. Peter Lok, Dr. Huiwen Zhang and Dr. Benny Lee.

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 Katherine Dunn Elementary School: Nikki Abuan-Rodriguez, Sofya Aguero, Jessica Arenas Hagler, Dylan Burkhart, Ismael Diaz, Kiara Druley, Ashleigh Fogal, Connor Freeman, Zachery Gaertner, Rebecca Graves, Hailey Ladd, Marcos Lopez, Richard Maramag, Montana Marsh, Christian Medina, Christian Miller, Ryan Mora, Misael Oregon, Vivian Sanchez, Cody Scoble, Jayden Scott, Chris Tonkin, Alyssa Tosado, Jody Vice, Elijah Wanco, Henry Aguilar, Elizabeth Aguilar, Vivian Alvarez, Karol Amaya, Caleb Ariaz, Savannah Barber, Dakota Davidson, Morgan Dayes, Jonathan De Leon, Irene Dominguez, Makayla Farmer, Kolton Ferro, Joseph Georges, Alex Gutierrez, Michelle Lara, David Lee, Ulises Martinez, Ixchel Mejia, Mary Jane Olivas, Adrain Ortiz, Erin Ramos, Nicolette Fimby, Joey Shugar, Rachel Shumsky, Joey Simon and Lilly Willson.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to the North Las Vegas, Mayor, Shari Buck.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Summer Alger and Thad Alger.

Senator Horsford moved that the Senate adjourn until Wednesday, May 4, 2011 at 11 a.m.

Motion carried.

Senate adjourned at 12:06 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE EIGHTY-SEVENTH DAY

CARSON CITY (Wednesday), May 4, 2011

Senate called to order at 11:17 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Gary Gryte.

Our Father in Heaven,

Thank You for bringing us together this morning. Please be with our families today, keep them safe and happy.

We ask for the strength to make the right decisions and the wisdom to know what is right. May we have the happiness that comes from being honest, kind and gracious, and may we care about each other as much as You care about us. This is our prayer.

In the Name of our Lord Jesus,

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 25, 102, 537, 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 was referred Assembly Bill No. 214, 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 Government Affairs, to which was referred Assembly Bill No. 201, 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 Assembly Bill No. 36, 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 was referred Assembly Bill No. 181, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

By Senator Rhoads:

Senate Concurrent Resolution No. 9—Expressing opposition to the location of a proposed wind power project on Mount Wilson and Table Mountain.

Senator Horsford moved that the resolution be referred to the Committee on Natural Resources.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 75.

Bill read second time and ordered to third reading.

Assembly Bill No. 32.

Bill read second time and ordered to third reading.

Assembly Bill No. 62.

Bill read second time.

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

Amendment No. 471.

"SUMMARY—Revises provisions relating to the Office of the Attorney General. (BDR 18-202)"

"AN ACT relating to the Office of the Attorney General; authorizing the Attorney General to charge a fee for the prosecution of certain felony cases; authorizing the Attorney General to charge a regulatory body for certain training services provided by the Attorney General; authorizing the Attorney General to charge the Board of Homeopathic Medical Examiners, the State Board of Oriental Medicine and the Board of Psychological Examiners for all services relating to certain investigations conducted by the Attorney General; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Attorney General to prosecute a criminal case upon the request of a district attorney. (NRS 228.130) **Section 1** of this bill authorizes the Attorney General to charge a county ~~[reasonable legal fees]~~ for **costs relating to** the prosecution of a category A or B felony. **Section 1 requires the Attorney General and the district attorney for the county to agree upon the costs of the Attorney General which are related to the prosecution.**

Existing law requires the Attorney General to provide training to a new member of a regulatory body. (NRS 622.200) **Section 3** of this bill authorizes the Attorney General to charge a regulatory body for providing training to a new member of a regulatory body.

Existing law requires the Board of Homeopathic Medical Examiners, the State Board of Oriental Medicine and the Board of Psychological Examiners to transmit to the Attorney General complaints concerning certain persons

regulated by those boards. Existing law further requires the Attorney General to investigate each such complaint. (NRS 630A.400, 630A.410, 634A.085, 641.270, 641.271) **Section 4** of this bill authorizes the Board of Homeopathic Medical Examiners to retain the Attorney General to investigate a complaint against a homeopathic physician, and **section 5** of this bill authorizes the Attorney General to charge the Board for all services related to the investigation. **Section 6** of this bill authorizes the State Board of Oriental Medicine to retain the Attorney General to investigate a complaint against a doctor of Oriental medicine and authorizes the Attorney General to charge the Board for all services related to the investigation. **Section 7** of this bill authorizes the Board of Psychological Examiners to retain the Attorney General to investigate a complaint against a psychologist, and **section 8** of this bill authorizes the Attorney General to charge the Board for all services related to the investigation.

Existing law requires the Board of Dispensing Opticians to submit a biennial report to the Attorney General. (NRS 637.080) **Section 9** of this bill repeals the provision requiring the Board of Dispensing Opticians to submit a biennial report to the Attorney General.

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

Section 1. NRS 228.130 is hereby amended to read as follows:

228.130 1. In all criminal cases where, in the judgment of the district attorney, the personal presence of the Attorney General or the presence of a deputy or special investigator is required in cases mentioned in subsection 2, before making a request upon the Attorney General for such assistance the district attorney must first present his or her reasons for making the request to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request to the Attorney General.

2. In all criminal cases where help is requested from the Attorney General's Office, as mentioned in subsection 1, in the presentation of criminal cases before a committing magistrate, grand jury, or district court, the board of county commissioners of the county making such request shall, upon the presentation to the board of a duly verified claim setting forth the expenses incurred, pay from the general funds of the county the actual and necessary traveling expenses of the Attorney General or his or her deputy or his or her special investigator from Carson City, Nevada, to the place where such proceedings are held and return therefrom, and also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date he or she returns to Carson City.

3. This section shall not be construed as directing or requiring the Attorney General to appear in any proceedings mentioned in subsection 2, but in acting upon any such request the Attorney General may exercise his or her discretion, and his or her judgment in such matters ~~[shall be]~~ ***is*** final.

4. In addition to any payment of expenses pursuant to subsection 2, the Attorney General may charge for the costs of providing assistance in the

prosecution of a category A or B felony pursuant to this section. Such costs must be ~~*[charged for services in a manner consistent with the amount charged to state agencies pursuant to subsection 3 of NRS 228.113.]*~~ ***agreed upon by the Attorney General and the district attorney for the county for which the Attorney General provides assistance.***

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 622.200 is hereby amended to read as follows:

622.200 ***1.*** As soon as practicable after a person is first appointed to serve as a member of a regulatory body, the person must be provided with:

~~[1.]~~ ***(a)*** A written summary of the duties and responsibilities of a member of the regulatory body; and

~~[2.]~~ ***(b)*** Training on those duties and responsibilities by the Attorney General. The training must include, without limitation, instruction related to the audit that is required by NRS 218G.400, except that a person who is a member of the Nevada State Board of Accountancy is not required to be provided with instruction related to that audit.

2. The Attorney General may, in accordance with the provisions of NRS 228.113, charge a regulatory body for all training provided pursuant to paragraph (b) of subsection 1.

Sec. 4. NRS 630A.400 is hereby amended to read as follows:

630A.400 1. The Board or a committee of its members designated by the Board shall review every complaint filed with the Board and conduct an investigation to determine whether there is a reasonable basis for compelling a homeopathic physician to take a mental or physical examination or an examination of his or her competence to practice homeopathic medicine.

2. If a committee is designated, it must be composed of at least three members of the Board, at least one of whom is a licensed homeopathic physician.

3. If, from the complaint or from other official records, it appears that the complaint is not frivolous and the complaint charges gross or repeated malpractice, the Board ~~[shall]~~ ***may:***

(a) Retain the Attorney General to investigate the complaint; and

(b) If the Board retains the Attorney General, transmit the original complaint, along with further facts or information derived from its own review, to the Attorney General.

4. Following ~~[the]~~ ***an*** investigation, the committee shall present its evaluation and recommendations to the Board. The Board shall review the committee's findings to determine whether to take any further action, but a member of the Board who participated in the investigation may not participate in this review or in any subsequent hearing or action taken by the Board.

Sec. 5. NRS 630A.410 is hereby amended to read as follows:

630A.410 1. ~~[The]~~ ***If the Board retains the Attorney General pursuant to NRS 630A.400, the*** Attorney General shall conduct an investigation of ~~[each]~~ ***the*** complaint transmitted to the Attorney General to

determine whether it warrants proceedings for modification, suspension or revocation of license. If the Attorney General determines that such further proceedings are warranted, the Attorney General shall report the results of the investigation together with a recommendation to the Board in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing before the Board.

2. The Board shall promptly make a determination with respect to each complaint reported to it by the Attorney General as to what action shall be pursued. The Board shall:

(a) Dismiss the complaint; or

(b) Proceed with appropriate disciplinary action.

3. If the Board retains the Attorney General pursuant to NRS 630A.400, the Attorney General may, in accordance with the provisions of NRS 228.113, charge the Board for all services relating to the investigation of a complaint.

Sec. 6. NRS 634A.085 is hereby amended to read as follows:

634A.085 1. If a written complaint regarding a ~~[~~licensee~~]~~ ***doctor of Oriental medicine*** is filed with the Board, the Board shall review the complaint. If, from the complaint or from other records, it appears that the complaint is not frivolous, the Board ~~[~~shall~~]~~ ***may:***

(a) Retain the Attorney General to investigate the complaint; and

(b) If the Board retains the Attorney General, transmit the original complaint and any facts or information obtained from the review to the Attorney General.

2. ~~[~~The~~]~~ ***If the Board retains the Attorney General, the*** Attorney General shall conduct an investigation of the complaint ***transmitted to the Attorney General*** to determine whether it warrants proceedings for the modification, suspension or revocation of the license. If the Attorney General determines that further proceedings are warranted, the Attorney General shall report the results of the investigation and any recommendation to the Board.

3. The Board shall promptly make a determination with respect to each complaint reported to it by the Attorney General. The Board shall:

(a) Dismiss the complaint; or

(b) Proceed with appropriate disciplinary action.

4. 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.

5. If the Board retains the Attorney General, the Attorney General may, in accordance with the provisions of NRS 228.113, charge the Board for all services relating to the investigation of a complaint pursuant to subsection 2.

Sec. 7. NRS 641.270 is hereby amended to read as follows:

641.270 When a complaint is filed with the Board, it shall review the complaint. If, from the complaint or from other official records, it appears that the complaint is not frivolous, the Board ~~[~~shall~~]~~ ***may:***

1. Retain the Attorney General to investigate the complaint; and

2. If the Board retains the Attorney General, transmit the original complaint, along with further facts or information derived from the review, to the Attorney General.

Sec. 8. NRS 641.271 is hereby amended to read as follows:

641.271 1. ~~[The]~~ ***If the Board retains the Attorney General pursuant to NRS 641.270, the*** Attorney General shall conduct an investigation of ~~[each]~~ ***a*** complaint transmitted to ~~[him or her by the Board]~~ ***the Attorney General*** to determine whether it warrants proceedings for the modification, suspension or revocation of the license. If the Attorney General determines that further proceedings are warranted, he or she shall report the results of the investigation together with a recommendation to the Board in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing on the complaint.

2. The Board shall promptly make a determination with respect to each complaint reported to it by the Attorney General. The Board shall:

(a) Dismiss the complaint; or

(b) Proceed with appropriate disciplinary action.

3. If the Board retains the Attorney General pursuant to NRS 641.270, the Attorney General may, in accordance with the provisions of NRS 228.113, charge the Board for all services relating to the investigation of a complaint pursuant to subsection 1.

Sec. 9. NRS 637.080 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

637.080 Report of Board to Attorney General. Before September 1 of each even-numbered year, for the biennium ending June 30 of such year, the Board shall submit to the Attorney General a written report. The report must include:

1. The names of all dispensing opticians to whom licenses have been granted as provided in this chapter.

2. Any cases heard and decisions rendered by the Board.

3. The recommendations of the Board as to future policies.

➥ Each member of the Board shall review and sign the report before it is submitted to the Attorney General.

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. 471 to Assembly Bill No. 62 provides that the Attorney General may charge for the costs of providing assistance to a county in prosecuting category A or B felonies. Those costs must be agreed upon by the Attorney General and the district attorney for the county receiving the assistance.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 91.

Bill read second time and ordered to third reading.

Assembly Bill No. 203.

Bill read second time.

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

Amendment No. 470.

"SUMMARY—Revises provisions governing **contractors.** ~~[the unlawful use of a contractor's license.]~~ (BDR 54-660)"

"AN ACT relating to contractors; requiring the State Contractors' Board to issue or authorize the issuance of a written administrative citation to a person who acts as a contractor without an active license of the proper classification; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the State Contractors' Board to issue a written administrative citation if the Board, based upon a preponderance of the evidence, has reason to believe that a person has violated any provision of statute or any administrative regulation governing contractors. (NRS 624.341) ~~[This]~~ **Section 1 of this** bill requires the Board to issue such a citation if a person has acted as a contractor without an active license of the proper classification. **Section 3 of this bill revises the definition of "contractor" as it pertains to public works. (NRS 338.010)**

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

Section 1. NRS 624.341 is hereby amended to read as follows:

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a person has ~~[committed an]~~ ***:***

(a) Acted as a contractor without an active license of the proper classification issued pursuant to this chapter, the Board or its designee, as appropriate, shall issue or authorize the issuance of a written administrative citation to the person.

(b) Committed any other act which constitutes a violation of this chapter or the regulations of the Board, the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the person.

2. A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, at the person's cost;

(b) An order to pay an administrative fine not to exceed $50,000, except as otherwise provided in subsection 1 of NRS 624.300; and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

~~[2.]~~ ***3.*** If a written citation issued pursuant to ~~[subsection 1]~~ ***this section*** includes an order to take action to correct a condition resulting from an act that constitutes a violation of this chapter or the regulations of the Board, the citation must state the time permitted for compliance, which must be not less than 15 business days after the date the person receives the citation, and specifically describe the action required to be taken.

~~[3.]~~ ***4.*** The sanctions authorized by ~~[subsection 1]~~ ***this section*** are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

~~[4.]~~ ***5.*** The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 2. (Deleted by amendment.)

Sec. 3. **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 f 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, 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.

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.

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. 470 to Assembly Bill No. 203 clarifies the definition of "contractor" as it pertains to public works.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 220.

Bill read second time and ordered to third reading.

Assembly Bill No. 295.

Bill read second time and ordered to third reading.

Assembly Bill No. 296.

Bill read second time and ordered to third reading.

Assembly Bill No. 319.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 33.

Bill read third time.

Roll call on Assembly Bill No. 33:

YEAS—21.

NAYS—None.

Assembly Bill No. 33 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 55.

Bill read third time.

Roll call on Assembly Bill No. 55:

YEAS—21.

NAYS—None.

Assembly Bill No. 55 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 121.

Bill read third time.

Roll call on Assembly Bill No. 121:

YEAS—21.

NAYS—None.

Assembly Bill No. 121 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 211 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Jeff Hamilton and Tamara McKinney.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Ricci Kilgore and Dakota.

On request of Senator Rhoads, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Battle Mountain Junior High School: Eduardo Alvarenga-Lopez, Isaias Araiza, Alax Baysinger, Justin Berumen, Kendall Berumen, James Bochman, Caitlin Book, Nadia Borboa, Preston Broyles, Darby Burkhart, Arturo Camacho Iturbe, Dominique Carrera, Miranda Chaffee, Alan Chavira, Kendall Clark, Valerie Clark, Michael Cory, Braedan Crotteau, Tove Dalgliesh, Mikah DeAndreis, Malika Delrio, Hector Diaz,

Mark Douglas Sanchez, Nellie Douglas, Jose Escobedo, Mayra Estrada, Shiann Fairbanks, Jonathan Figueroa, Jordin Frakes, Kora Garza, Mackenzie Gilbert, Alejandro Gonzalez, Maritza Gonzalez, Zachary Hall, Jordan Hammill, Ashley Haney, Jade Harkness, Cheyanne Hartzell, Brett Hetland, Joshua Jeffcoats, Amanda Johnson, Laura Lara, Taylor LeBaron, Aisja Lee, Cecilia Leon, Alex Longtree-Bill, Jasmine Marquez, Ana Marinez, Gabriela Martinez, Juan Martinez, Kaitlyn McConville, Samantha McKenzie, Tyson McKenzie, Heriberto Mendoza-Guizar, Worth Nelson Jr., Damon Nelson, BreeAnda New, Jonathan Obieta, Sean Peasnall, Christian Perez, Frank Peters, Wayne Piramide, Olivia Price, Cayli Pullin, Keegan Quintana, Jessenia Ramirez, Parker Rochester, Dayana Rodriguez, Toliver Rogers, Cassandra Rubio, Shawn Smith, Damon Spring, Luke St. Clair, Trecy Stuart, Jakob Taylor, Dillon Thompson, Dominic Valles, Jessica Van Houten, Tyler Whitesell, Damian Wilson, Alyssa Wristen, Joseph Youngblood and Cheyann Zollinger.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Irene Vogel.

On request of Senator Settelmeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Ray Sidney and Jack Kelly.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Jon Killoran, Paul Heglar and Daron Rahlves.

Senator Horsford moved that the Senate adjourn until Saturday, May 7, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 11:53 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETIETH DAY

CARSON CITY (Saturday), May 7, 2011

Senate called to order at 11:33 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Valerie Wiener, RScP.

As we take a moment to inhale and exhale the magnificence of this day, in knowing that in this moment right here and right now, all is God.

Yes, all is God. For, in the beginning, the now, and the eternity, there is only God, the one power and the one presence. God is the creator of itself and all that is. Each idea. Each being. Each action. Each interaction, all of this is God.

In knowing this, as we begin our day together, in each moment, in the presence of all, we are graced with the opportunities to serve. In the truth of who we are, we remember that we are the divine expressions of the one power and the one presence.

We have boundless opportunities to do good work. For this is who we are, not just what we do. As we celebrate the infinite possibilities that are ours for the claiming, I rejoice in the greatest of gratitude for all that is before us, moment by moment—in the now and beyond. For this and so much more, I say, "And so it is."

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 Assembly Bills Nos. 150, 352, 429, 441, 538, 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 was referred Assembly Bill No. 215, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 450, 472, 481; Assembly Bill No. 556, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 445, 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 Health and Human Services, to which was referred Assembly Bill No. 350, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 6, 57, 194, 226, 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 6, 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. 480, 498, 534.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 167, 363.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Legislative Operations and Elections:

Senate Bill No. 497—AN ACT relating to elections; revising the legislative districts from which the members of the Senate and Assembly are elected; revising the districts from which Representatives in the Congress of the United States are elected; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 498—AN ACT relating to unarmed combat; expanding the authorized use of proceeds from the additional fee for each ticket sold for admission to a live professional contest of unarmed combat; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Finance:

Senate Bill No. 499—AN ACT relating to the State Judicial Department; repealing the provisions creating the Fund for the National Judicial College and the Fund for the National College of Juvenile and Family Law; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 167.

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

Motion carried.

Assembly Bill No. 363.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 480.

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

Motion carried.

Assembly Bill No. 498.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 534.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 75 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 25.

Bill read second time and ordered to third reading.

Assembly Bill No. 36.

Bill read second time.

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

Amendment No. 552.

"SUMMARY—Makes various changes concerning the Fund for Hospital Care to Indigent Persons. (BDR 38-282)"

"AN ACT relating to indigent persons; revising provisions governing the Fund for Hospital Care to Indigent Persons; revising the membership of the Board of Trustees of the Fund; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Fund for Hospital Care to Indigent Persons to pay certain costs of hospital care provided to persons injured in motor vehicle accidents who are indigent. The Fund is composed of money collected or recovered from certain taxes and from certain charges against a county for unpaid charges for hospital care not greater than $3,000. (NRS 428.115-428.255)

Section 2 of this bill changes the membership of the Board of Trustees of the Fund to require the Governor to appoint a director of a social services agency of a county as one of the five members of the Board. **Section 2** further authorizes such a director of a social services agency to designate another person to carry out his or her duties on the Board when the director is unavailable.

Sections 1 and 4 of this bill require the money deposited in the Fund by a county for unpaid hospital charges not exceeding $3,000 to be accounted for separately in the Fund and used to reimburse or partially reimburse a hospital for unpaid hospital charges.

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

Section 1. NRS 428.175 is hereby amended to read as follows:

428.175 1. The Fund for Hospital Care to Indigent Persons is hereby created as a special revenue fund for the purposes described in NRS 428.115 to 428.255, inclusive.

2. ~~[All]~~ ***Except as otherwise provided in subsection 3,*** money collected or recovered pursuant to NRS 428.115 to 428.255, inclusive, and the interest earned on the money in the Fund must be deposited for credit to the Fund.

3. Any money paid by a county pursuant to NRS 428.255 must be accounted for separately in the Fund and must be used to reimburse or partially reimburse a hospital for unpaid charges for hospital care pursuant to NRS 428.115 to 428.255, inclusive, as other claims against the Fund are paid.

4. Claims against the Fund must be paid on claims approved by the Board.

Sec. 2. NRS 428.195 is hereby amended to read as follows:

428.195 1. The Fund must be administered by a Board of Trustees composed of five ***members appointed by the Governor as follows:***

(a) Four county commissioners***; and***

(b) One director of a social services agency of a county.

2. The members of the Board of Trustees must be appointed by the Governor from a list of ~~[ten]~~ nominees submitted by the Board of Directors of the Nevada Association of Counties.

~~[2.]~~ ***The list of nominees must include six nominees who are county commissioners and three nominees who are directors of a social services agency of a county.***

3. Each member of the Board of Trustees shall serve a term of ~~[1 year]~~ ***2 years*** or until a successor has been appointed and has qualified.

~~[3.]~~ ***4.*** The position of a member of the Board of Trustees shall be considered vacated upon the loss of any of the qualifications required for the appointment of the member and in that event the Governor shall appoint a successor from a list of ~~[two]~~ nominees submitted by the Board of Directors of the Nevada Association of Counties. ***The list of nominees must include two county commissioners if the member of the Board is a county***

commissioner or two directors of a social services agency if the member of the board is the director of a social services agency of a county.

5. The director of a social services agency who is appointed to the Board of Trustees may designate a person to carry out his or her duties on the Board of Trustees when the director is unavailable, and any such designee has the same power as any other member of the Board of Trustees for the period in which he or she is designated to act on behalf of the director.

6. As used in this section, "social services agency" means any public agency or organization that provides social services in this State, including, without limitation, providing welfare and health care services.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 428.255 is hereby amended to read as follows:

428.255 ***1.*** Any reimbursement or partial reimbursement made from the Fund for unpaid charges for hospital care furnished to a person which are not greater than $3,000, is a charge upon the county in which:

~~[1.]~~ ***(a)*** The accident occurred, if the person is not a resident of this state and the accident occurred in this state; or

~~[2.]~~ ***(b)*** The person resides, if the person is a resident of this state,

➥ and must be paid ***to the Fund*** upon a claim presented by the Board as other claims against the county are paid.

2. Money paid by a county pursuant to this section must be accounted for separately and expended in accordance with the provisions of subsection 3 of NRS 428.175.

Sec. 5. This act becomes effective ~~[on July 1, 2011.]~~ **upon passage and approval.**

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

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

Thank you, Mr. President. This is a simple amendment. It just changes the effective date to upon passage and approval.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 102.

Bill read second time and ordered to third reading.

Assembly Bill No. 181.

Bill read second time and ordered to third reading.

Assembly Bill No. 201.

Bill read second time.

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

Amendment No. 549.

"SUMMARY—Revises provisions pertaining to informational statements provided for the adoption of administrative regulations. (BDR 18-83)"

"AN ACT relating to administrative regulations; requiring that the name and contact information ~~[for]~~ **of, and the name of the entity or organization represented by,** each person who presented testimony at the hearing on the adoption of a regulation be included in the informational statement if such information was provided to the adopting agency; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes minimum procedural requirements for the adoption of regulations by certain agencies of the Executive Department of the State Government, including a requirement that these agencies file an informational statement with each regulation to indicate the manner in which public comment was solicited regarding the adoption of the regulation. (NRS 233B.040-233B.120) This bill adds a requirement that the name and contact information ~~[for]~~ **of, and the name of the entity or organization represented by,** each person who presented testimony at the hearing on the adoption of the regulation be included in the informational statement if such information was provided to the agency that adopted the regulation.

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

Section 1. NRS 233B.066 is hereby amended to read as follows:

233B.066 1. Except as otherwise provided in subsection 2, each adopted regulation which is submitted to the Legislative Counsel pursuant to NRS 233B.067 or filed with the Secretary of State pursuant to subsection 2 or 3 of NRS 233B.070 must be accompanied by a statement concerning the regulation which contains the following information:

(a) A description of how public comment was solicited, a summary of the public response and an explanation ***of*** how other interested persons may obtain a copy of the summary.

(b) The number of persons who:

(1) Attended each hearing;

(2) Testified at each hearing; and

(3) Submitted to the agency written statements.

(c) ~~*[The name, profession or trade, home address and telephone number, business address and telephone number, and electronic mail address of]*~~ ***For each person identified in subparagraphs (2) and (3) of paragraph (b),*** ~~*[if such]*~~ ***the following information*** ~~*[is]*~~ ***if provided to the agency conducting the hearing*** ~~*[.]*~~ ***:***

(1) Name;

(2) Telephone number;

(3) Business address;

(4) Business telephone number;

(5) Electronic mail address; and

(6) Name of entity or organization represented.

(d) A description of how comment was solicited from affected businesses, a summary of their response and an explanation ***of*** how other interested persons may obtain a copy of the summary.

~~[(d)]~~ ***(e)*** If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

~~[(e)]~~ ***(f)*** The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

(1) Both adverse and beneficial effects; and

(2) Both immediate and long-term effects.

~~[(f)]~~ ***(g)*** The estimated cost to the agency for enforcement of the proposed regulation.

~~[(g)]~~ ***(h)*** A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

~~[(h)]~~ ***(i)*** If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

~~[(i)]~~ ***(j)*** If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

2. The requirements of paragraphs (a) to ~~[(d),]~~ ***(e),*** inclusive, of subsection 1 do not apply to emergency regulations.

Sec. 2. This act becomes effective upon passage and approval.

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. 549 to Assembly Bill No. 201 clarifies the information that must be provided with each adopted regulation submitted to the Legislative Counsel Bureau or filed with the Office of the Secretary of State, if the information was provided at a State agency's regulation hearing. Specifically, the amendment provides that the entity or organization represented by the person who testified at the regulation hearing shall be provided and not the home address and home telephone number.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 214.

Bill read second time.

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

Amendment No. 550.

"SUMMARY—Revises provisions governing certain disbursements of money from escrow accounts. (BDR 54-1016)"

"AN ACT relating to escrow accounts; requiring that certain disbursements of money from escrow accounts be payable in United States currency; requiring that certain disbursements of money from escrow accounts be disbursed in accordance with federal law governing next-day availability of such money; **establishing provisions concerning the disbursement of money from an escrow account by a title insurer, title agent or escrow officer;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the disbursement of money held in escrow **by an escrow officer or escrow agent** relating to certain transactions and prohibits disbursements from an escrow account on the same business day as the money is deposited unless the deposit is made in certain forms which allow for the immediate withdrawal of the money. (NRS 645A.171) ~~[~~This~~]~~ **Section 1 of this** bill requires certain disbursements **by an escrow agent** which are available on the same business day as that on which the money is deposited to be payable in United States currency. ~~[~~This bill~~]~~ **Section 1** also requires that money in an escrow account which is accorded next-day availability be disbursed **by the escrow agent** in accordance with all applicable federal laws.

Section 2 of this bill establishes provisions concerning the disbursement of money from an escrow account by a title insurer, title agent or escrow officer with respect to real estate transactions. Section 2 prohibits the disbursement of such money until deposits that are at least equal to the proposed disbursement have been received, prohibits the disbursement unless the deposit is made in certain forms which allow for the immediate withdrawal of the money and requires that money in an escrow account which is accorded next-day availability be disbursed by the title insurer, title agent or escrow officer in accordance with all applicable federal laws.

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

Section 1. NRS 645A.171 is hereby amended to read as follows:

645A.171 1. ~~[~~No escrow officer or person who acts as an~~]~~ ***An*** escrow agent ~~[~~may~~]~~ ***shall not*** disburse money from an escrow account unless deposits which are at least equal in value to the proposed disbursements and which relate directly to the transaction for which the money is to be disbursed have been received.

2. ~~[~~No escrow officer or person who acts as an~~]~~ ***An*** escrow agent ~~[~~may~~]~~ ***shall not*** disburse money from an escrow account on the same business day as the money is deposited unless the deposit is made in one of the following forms:

(a) Cash;

(b) Interbank electronic transfer such that the money deposited is available for immediate withdrawal without condition ~~[;]~~ ***and payable in United States currency;***

(c) Negotiable order of withdrawal, money order, cashier's check or certified check which is payable in this State and which is drawn from a financial institution located in this State;

(d) Any depository check, including any cashier's check or teller's check, that is governed by the Expedited Funds Availability Act, 12 U.S.C. §§ 4001 et seq.; or

(e) Any other form that permits conversion of the deposit to cash on the same day as the deposit is made.

3. ***An escrow*** ~~*[officer or person who acts as an escrow]*~~ ***agent who disburses money from an escrow account pursuant to this section on the next business day after the day on which the money is deposited shall comply with all applicable federal laws or regulations with respect to the disbursement of money accorded next-day availability that is deposited in an escrow account.***

~~*[*~~ ~~*4. As used in this section, "escrow officer" has the meaning ascribed to it in NRS 692A.028.]*~~

Sec. 2. **Chapter 692A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A title insurer, title agent or escrow officer shall not disburse money from an escrow account unless deposits which are at least equal in value to the proposed disbursements and which relate directly to the transaction for which the money is to be disbursed have been received.

2. A title insurer, title agent or escrow officer shall not disburse money from an escrow account on the same business day as the money is deposited unless the deposit is made in one of the following forms:

(a) Cash;

(b) Interbank electronic transfer such that the money deposited is available for immediate withdrawal without condition and payable in United States currency;

(c) Negotiable order of withdrawal, money order, cashier's check or certified check which is payable in this State and which is drawn from a financial institution located in this State;

(d) Any depository check, including any cashier's check or teller's check, that is governed by the Expedited Funds Availability Act, 12 U.S.C. §§ 4001 et seq.; or

(e) Any other form that permits conversion of the deposit to cash on the same day as the deposit is made.

3. A title insurer, title agent or escrow officer who disburses money from an escrow account pursuant to this section on the next business day after the day on which the money is deposited shall comply with all applicable federal laws or regulations with respect to the disbursement of

money accorded next-day availability that is deposited in an escrow account.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. This amendment clarifies that monies disbursed from an escrow account has to be deposited in U.S. currency available to be disbursed the next day.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 537.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 32.

Bill read third time.

Roll call on Assembly Bill No. 32:

YEAS—21.

NAYS—None.

Assembly Bill No. 32 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 62.

Bill read third time.

Roll call on Assembly Bill No. 62:

YEAS—21.

NAYS—None.

Assembly Bill No. 62 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 91.

Bill read third time.

Roll call on Assembly Bill No. 91:

YEAS—21.

NAYS—None.

Assembly Bill No. 91 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 203.

Bill read third time.

Roll call on Assembly Bill No. 203:

YEAS—21.

NAYS—None.

Assembly Bill No. 203 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 211.

Bill read third time.

The following amendment was proposed by Senator Parks:

Amendment No. 560.

"SUMMARY— ~~[Prohibits]~~ **Revises provisions governing** discriminatory employment practices**.** ~~[based upon gender identity or expression.]~~ (BDR 53-272)"

"AN ACT relating to employment practices; prohibiting discriminatory employment practices based upon the gender identity or expression of a person; **authorizing the Nevada Equal Rights Commission to investigate certain acts of prejudice against a person with regard to employment based on gender identity or expression and sexual orientation;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes that it is the policy of this State to foster the right of all persons to reasonably seek, obtain and hold employment without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, national origin or ancestry. (NRS 233.010) Consistent with that policy, existing law protects against such discrimination with respect to apprenticeships. (NRS 610.010, 610.020, 610.150, 610.185) In addition, existing law prohibits certain employers, employment agencies, labor organizations, joint labor-management committees or contractors from engaging in certain discriminatory employment practices. For example, it is an unlawful employment practice to fail to hire or to fire or otherwise discriminate against a person, or to limit or segregate or classify an employee on the basis of race, color, religion, sex, sexual orientation, age, disability or national origin, except in certain circumstances. (NRS 338.125, 613.330, 613.340, 613.350, 613.380) **Sections 2-4, 7-13, 16 and 17** of this bill add "gender identity or expression" to the list of categories upon which discrimination is prohibited, and **sections 1, 5 and 14** of this bill define "gender identity or expression" to mean the gender-related identity, appearance, expression or behavior of a person, regardless of the person's assigned sex at birth.

Existing law authorizes the Nevada Equal Rights Commission to investigate tensions, practices of discrimination and acts of prejudice against any person with regard to employment based on race, color, creed, sex, age, disability, national origin or ancestry. (NRS 233.150) **Section 15** of this bill adds "gender identity or expression" **and "sexual orientation"** to the list of categories upon which the Commission may investigate such allegations of discrimination.

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

Section 1. NRS 610.010 is hereby amended to read as follows:

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

1. "Agreement" means a written and signed agreement of indenture as an apprentice.

2. "Apprentice" means a person who is covered by a written agreement, issued pursuant to a program with an employer, or with an association of employers or an organization of employees acting as agent for an employer.

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. "Program" means a program of training and instruction as an apprentice in an occupation in which a person may be apprenticed.

~~[5.]~~ ***6.*** "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 2. NRS 610.020 is hereby amended to read as follows:

610.020 The purposes of this chapter are:

1. To open to people, without regard to race, color, creed, sex, sexual orientation, ***gender identity or expression,*** religion, disability or national origin, the opportunity to obtain training that will equip them for profitable employment and citizenship.

2. To establish, as a means to this end, an organized program for the voluntary training of persons under approved standards for apprenticeship, providing facilities for their training and guidance in the arts and crafts of industry and trade, with instruction in related and supplementary education.

3. To promote opportunities for employment for all persons, without regard to race, color, creed, sex, sexual orientation, ***gender identity or expression,*** religion, disability or national origin, under conditions providing adequate training and reasonable earnings.

4. To regulate the supply of skilled workers in relation to the demand for skilled workers.

5. To establish standards for the training of apprentices in approved programs.

6. To establish a State Apprenticeship Council with the authority to carry out the purposes of this chapter and provide for local joint apprenticeship committees to assist in carrying out the purposes of this chapter.

7. To provide for a State Director of Apprenticeship.

8. To provide for reports to the Legislature and to the public regarding the status of the training of apprentices in the State.

9. To establish procedures for regulating programs and deciding controversies concerning programs and agreements.

10. To accomplish related ends.

Sec. 3. NRS 610.150 is hereby amended to read as follows:

610.150 Every agreement entered into under this chapter must contain:

1. The names and signatures of the contracting parties and the signature of a parent or legal guardian if the apprentice is a minor.

2. The date of birth of the apprentice.

3. The name and address of the sponsor of the program.

4. A statement of the trade or craft in which the apprentice is to be trained, and the beginning date and expected duration of the apprenticeship.

5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction must not be less than 144 hours per year.

6. A statement setting forth a schedule of the processes in the trade or division of industry in which the apprentice is to be trained and the approximate time to be spent at each process.

7. A statement of the graduated scale of wages to be paid the apprentice and whether or not compensation is to be paid for the required time in school.

8. Statements providing:

(a) For a specific period of probation during which the agreement may be terminated by either party to the agreement upon written notice to the State Apprenticeship Council; and

(b) That after the probationary period the agreement may be cancelled at the request of the apprentice, or suspended, cancelled or terminated by the sponsor for good cause, with due notice to the apprentice and a reasonable opportunity for corrective action, and with written notice to the apprentice and the State Apprenticeship Council of the final action taken.

9. A reference incorporating as part of the agreement the standards of the program as it exists on the date of the agreement and as it may be amended during the period of the agreement.

10. A statement that the apprentice will be accorded equal opportunity in all phases of employment and training as an apprentice without discrimination because of race, color, creed, sex, sexual orientation, ***gender identity or expression,*** religion or disability.

11. A statement naming the State Apprenticeship Council as the authority designated pursuant to NRS 610.180 to receive, process and dispose of controversies or differences arising out of the agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the program or collective bargaining agreements.

12. Such additional terms and conditions as are prescribed or approved by the State Apprenticeship Council not inconsistent with the provisions of this chapter.

Sec. 4. NRS 610.185 is hereby amended to read as follows:

610.185 The State Apprenticeship Council shall suspend for 1 year the right of any employer, association of employers or organization of employees acting as agent for an employer to participate in a program under the provisions of this chapter if the Nevada Equal Rights Commission, after notice and hearing, finds that the employer, association or organization has discriminated against an apprentice because of race, color, creed, sex, sexual orientation, ***gender identity or expression,*** religion, disability or national origin in violation of this chapter.

Sec. 5. NRS 613.310 is hereby amended to read as follows:

613.310 As used in NRS 613.310 to 613.435, 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, including, without limitation, the human immunodeficiency virus;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

2. "Employer" means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, but does not include:

(a) The United States or any corporation wholly owned by the United States.

(b) Any Indian tribe.

(c) Any private membership club exempt from taxation pursuant to 26 U.S.C. § 501(c).

3. "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer, but does not include any agency of the United States.

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. "Labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment.

~~[5.]~~ ***6.*** "Person" includes the State of Nevada and any of its political subdivisions.

~~[6.]~~ ***7.*** "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 6. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.435, inclusive, do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.435, inclusive, concerning unlawful employment practices related to sexual orientation ***and gender identity or expression*** do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

Sec. 7. NRS 613.330 is hereby amended to read as follows:

613.330 1. Except as otherwise provided in NRS 613.350, it is an unlawful employment practice for an employer:

(a) To fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to the person's compensation, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin; or

(b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive the employee of employment opportunities or otherwise adversely affect his or her status as an employee, because of his or her race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin.

2. It is an unlawful employment practice for an employment agency to:

(a) Fail or refuse to refer for employment, or otherwise to discriminate against, any person because of the race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin of that person; or

(b) Classify or refer for employment any person on the basis of the race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin of that person.

3. It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any person because of his or her race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin;

(b) To limit, segregate or classify its membership, or to classify or fail or refuse to refer for employment any person, in any way which would deprive or tend to deprive the person of employment opportunities, or would limit the person's employment opportunities or otherwise adversely affect the person's status as an employee or as an applicant for employment, because of his or her race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin; or

(c) To cause or attempt to cause an employer to discriminate against any person in violation of this section.

4. It is an unlawful employment practice for any employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining, including, without limitation, on-the-job

training programs, to discriminate against any person because of his or her race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

5. It is an unlawful employment practice for any employer, employment agency, labor organization or joint labor-management committee to discriminate against a person with a disability by interfering, directly or indirectly, with the use of an aid or appliance, including, without limitation, a service animal, by such a person.

6. It is an unlawful employment practice for an employer, directly or indirectly, to refuse to permit an employee with a disability to keep the employee's service animal with him or her at all times in his or her place of employment.

7. As used in this section, "service animal" has the meaning ascribed to it in NRS 426.097.

Sec. 8. NRS 613.340 is hereby amended to read as follows:

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.435, inclusive, or because he or she has made a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.435, inclusive.

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, ***gender identity or expression,*** age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, ***gender identity or expression,*** age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 9. NRS 613.350 is hereby amended to read as follows:

613.350 1. It is not an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any person, for a labor organization to classify its membership or to classify or refer for employment any person, or for an

employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to admit or employ any person in any such program, on the basis of his or her religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin in those instances where religion, sex, sexual orientation, ***gender identity or expression,*** age, physical, mental or visual condition or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.

2. It is not an unlawful employment practice for an employer to fail or refuse to hire and employ employees, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-management committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of a disability in those instances where physical, mental or visual condition is a bona fide and relevant occupational qualification necessary to the normal operation of that particular business or enterprise, if it is shown that the particular disability would prevent proper performance of the work for which the person with a disability would otherwise have been hired, classified, referred or prepared under a training or retraining program.

3. It is not an unlawful employment practice for an employer to fail or refuse to hire or to discharge a person, for an employment agency to fail to classify or refer any person for employment, for a labor organization to fail to classify its membership or to fail to classify or refer any person for employment, or for an employer, labor organization or joint labor-committee controlling apprenticeship or other training or retraining programs to fail to admit or employ any person in any such program, on the basis of his or her age if the person is less than 40 years of age.

4. It is not an unlawful employment practice for a school, college, university or other educational institution or institution of learning to hire and employ employees of a particular religion if the school or institution is, in whole or in substantial part, owned, supported, controlled or managed by a particular religion or by a particular religious corporation, association or society, or if the curriculum of the school or institution is directed toward the propagation of a particular religion.

5. It is not an unlawful employment practice for an employer to observe the terms of any bona fide plan for employees' benefits, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of NRS 613.310 to 613.435, inclusive, as they relate to discrimination against a person because of age, except that no such plan excuses the failure to hire any person who is at least 40 years of age.

6. It is not an unlawful employment practice for an employer to require employees to adhere to reasonable workplace appearance, grooming and

dress standards so long as such requirements are not precluded by law, except that an employer shall allow an employee to appear, groom and dress consistent with the employee's gender identity or expression.

Sec. 10. NRS 613.380 is hereby amended to read as follows:

613.380 Notwithstanding any other provision of NRS 613.310 to 613.435, inclusive, it is not an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, if those differences are not the result of an intention to discriminate because of race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin, nor is it an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test, if the test, its administration or action upon the results is not designed, intended or used to discriminate because of race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin.

Sec. 11. NRS 613.400 is hereby amended to read as follows:

613.400 Nothing contained in NRS 613.310 to 613.435, inclusive, requires any employer, employment agency, labor organization or joint labor-management committee subject to NRS 613.310 to 613.435, inclusive, to grant preferential treatment to any person or to any group because of the race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin of the individual or group on account of an imbalance which exists with respect to the total number or percentage of persons of any race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in, any apprenticeship or other training program, in comparison with the total number or percentage of persons of that race, color, religion, sex, sexual orientation, ***gender identity or expression,*** age, disability or national origin in any community, section or other area, or in the available workforce in any community, section or other area.

Sec. 12. NRS 613.405 is hereby amended to read as follows:

613.405 Any person injured by an unlawful employment practice within the scope of NRS 613.310 to 613.435, inclusive, may file a complaint to that effect with the Nevada Equal Rights Commission if the complaint is based on discrimination because of race, color, sex, sexual orientation, ***gender identity or expression,*** age, disability, religion or national origin.

Sec. 13. 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 or ancestry.

3. ***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 without discrimination, distinction or restriction because of race, religious creed, color, age, sex, disability, sexual orientation, gender identity or expression, national origin or ancestry.***

4. 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. 14. 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. 15. 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, 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.

(c) With regard to employment, investigate tensions, practices of discrimination and acts of prejudice against any person or group because of race, color, creed, sex, age, disability, sexual orientation, gender identity or expression, 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.

Sec. 16. NRS 281.370 is hereby amended to read as follows:

281.370 1. All personnel actions taken by state, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof must be based solely on merit and fitness.

2. State, county or municipal departments, housing authorities, agencies, boards or appointing officers thereof shall not refuse to hire a person, discharge or bar any person from employment or discriminate against any person in compensation or in other terms or conditions of employment because of the person's race, creed, color, national origin, sex, sexual orientation, ***gender identity or expression,*** age, political affiliation or disability, except when based upon a bona fide occupational qualification.

3. As used in this section:

(a) "Disability" means, with respect to a person:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of the person;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

(b) ***"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.***

(c) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Sec. 17. NRS 338.125 is hereby amended to read as follows:

338.125 1. It is unlawful for any contractor in connection with the performance of work under a contract with a public body, when payment of the contract price, or any part of such payment, is to be made from public money, to refuse to employ or to discharge from employment any person because of his or her race, color, creed, national origin, sex, sexual orientation ***, gender identity or expression,*** or age, or to discriminate against

a person with respect to hire, tenure, advancement, compensation or other terms, conditions or privileges of employment because of his or her race, creed, color, national origin, sex, sexual orientation, ***gender identity or expression,*** or age.

2. Contracts between contractors and public bodies must contain the following contractual provisions:

In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, sexual orientation ***, gender identity or expression,*** or age, including, without limitation, with regard to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including, without limitation, apprenticeship.

The contractor further agrees to insert this provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

3. Any violation of such provision by a contractor constitutes a material breach of contract.

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

(a) "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.

(b) "Sexual orientation" means having or being perceived as having an orientation for heterosexuality, homosexuality or bisexuality.

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks, Hardy, Horsford and President Krolicki.

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

SENATOR PARKS:

Amendment No. 560 revises two sections of *Nevada Revised Statutes (*NRS) section 233 which governs the Nevada Equal Rights Commission. This amendment would simply make all subsections uniform and consistent with other bills that have already passed out of this House.

SENATOR HARDY:

Thank you, Mr. President. In speaking to the amendment, it talks about employment based gender identity or expression.

On page 3, it deals with that same definition of expression or behavior of a person. There is a distinct difference between allowing protection and expression or behavior.

We treasure the freedom of speech in this country, but it has limitations such as not yelling fire in a crowded theater. This amendment creates an extra right. It is ironic when we can consider that in the bill on page 3, Section 2, line 23 it states, "gender identity or expression, religion." You will notice "religion" is not followed by the word "expression."

In the workplace, we are hired to do a job and even if in the contract it does not say that I am allowed to say what religion I am, and why I believe, it becomes inappropriate at times to be preaching in the workplace. I see this as one of those expression issues that could be problematic in the schools, in the workplace, and in a public facility within a private facility.

I was further concerned when I got a letter from a constituent stating, "I am standing up for the right of all Nevadans to be treated fairly and to have protection under the law from discrimination based on their gender identity, or expression." I do not know where that expression ends and where it begins. I have concerns about that. The constituents have a perception of where that begins and ends. It is a real issue that we are giving a super right of expression instead of limiting that to a protection.

SENATOR HORSFORD:

Thank you, Mr. President. As a point of order, with respect to my colleague from District 12, the amendment before you has nothing to do with the expression issue. It is specifically related to sexual orientation, which was a technical oversight in the drafting of the initial bill which is current law.

MR. PRESIDENT:

Respectfully, I thought the Senator was addressing the amendment because the "expression" terminology is used in the amendment's description.

SENATOR HORSFORD:

Point of order, that is not. That is the bill as amended. Assembly Bill No. 211 is in the preamble of the bill. The amendment as before has the purple areas highlighted.

MR. PRESIDENT:

The point is there is a question about "expression." I allowed it. I do not think it changes what we are doing here. There is an amendment before us. There is a motion to pass it.

SENATOR HORSFORD:

I do not disagree I just want the body to be clear, that the amendment before you deals only with the language to add sexual orientation to the list.

SENATOR HARDY:

Thank you, Mr. President. It may be my misunderstanding. When I read the preamble to the bill, or as it is amended, it says, "authorizing Nevada Equal Rights Commission to investigate certain acts of prejudice against a person with regard to employment based on gender identity or expression and sexual orientation." All of which is in green, which was not in the original bill.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 220.

Bill read third time.

Roll call on Assembly Bill No. 220:

YEAS—21.

NAYS—None.

Assembly Bill No. 220 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 295.

Bill read third time.

Remarks by Senator Brower.

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

Thank you, Mr. President. I rise to thank the sponsor of this bill for bringing this issue to our attention and fixing a glitch in the State law.

As I have mentioned on this Floor before, these issues are happening with more regularity and affecting more families around this country than in recent memory.

When I was on active duty, I went through training on how to tell families that a loved one had been killed in action. Then, it was very abstract. It did not happen often. This is happening on a weekly basis in our country.

I appreciate my colleague from Washoe County as a cosponsor and the others who rose to the occasion to help veterans' groups make this small change. It is an important change and I urge your support.

Roll call on Assembly Bill No. 295:
YEAS—21.
NAYS—None.

Assembly Bill No. 295 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 296.

Bill read third time.

Roll call on Assembly Bill No. 296:
YEAS—21.
NAYS—None.

Assembly Bill No. 296 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 319.

Bill read third time.

Roll call on Assembly Bill No. 319:
YEAS—21.
NAYS—None.

Assembly Bill No. 319 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

May 7, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bills Nos. 498, 499.

MARK KRMPOTIC
Fiscal Analysis Division

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 12, 18, 33, 55, 83, 97, 111, 121, 125, 142, 147, 156, 166, 168, 174, 217, 250, 261, 262, 348, 464; Assembly Concurrent Resolution No. 9.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Andrew Clinger, Department of Administration.

Senator Horsford moved that the Senate adjourn until Monday, May 9, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:17 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETY-SECOND DAY

CARSON CITY (Monday), May 9, 2011

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

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Yesterday was a special day when we honored our mothers.

Thank You Lord for all the mothers, here in the Legislature and all across America. The mothers and the grandmothers here in the Senate have families at home, please watch over them.

Thank You for those who are at the work place, faithfully providing for their families. As they balance deadlines, coworkers, supervisors and all the duties that fill their days, give them a sense of peace about their childrens' care and well being.

Bless the people who are watching the children of these mothers at work. Help all mothers and grandmothers, wherever they may be, to appreciate each other's sacrifices and to respect their different decisions. Certainly, all mothers are deserving of our greatest thanks and admiration.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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 Judiciary, to which were referred Assembly Bills Nos. 9, 107, 161, 244, 269, 284, 321, 408, 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 Assembly Bills Nos. 109, 271, 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. 497, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 75 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. 445.

Bill read second time and ordered to third reading.

Senate Bill No. 450.
Bill read second time and ordered to third reading.

Senate Bill No. 472.
Bill read second time and ordered to third reading.

Senate Bill No. 481.
Bill read second time and ordered to third reading.

Assembly Bill No. 6.
Bill read second time and ordered to third reading.

Assembly Bill No. 57.
Bill read second time and ordered to third reading.

Assembly Bill No. 150.
Bill read second time and ordered to third reading.

Assembly Bill No. 194.
Bill read second time and ordered to third reading.

Assembly Bill No. 215.
Bill read second time.

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

Amendment No. 569.

"SUMMARY—Revises provisions governing utilities. (BDR 58-593)"

"AN ACT relating to utilities; authorizing certain public utilities that purchase natural gas for resale and electric utilities to request approval from the Public Utilities Commission of Nevada to make quarterly rate adjustments based on deferred accounting; requiring that written notices which are provided to customers of certain public utilities that purchase natural gas for resale and electric utilities contain information about the review of certain quarterly rate adjustments by the Commission; authorizing the Commission to allow public utilities that purchase natural gas for resale and electric utilities to apply for certain additional rate adjustments upon a showing of good cause; prohibiting public utilities which purchase natural gas for resale and electric utilities from applying for certain annual rate adjustments after receiving approval from the Commission to make quarterly rate adjustments based on deferred accounting; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes certain public utilities that purchase natural gas for resale and certain electric utilities to use deferred accounting to reflect changes in the cost of purchased natural gas, fuel or power. (NRS 704.185, 704.187) **Section 5** of this bill authorizes a public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis based on the fluctuating price of natural gas to request

approval to make quarterly adjustments to its deferred energy accounting adjustment. **Section 5** also authorizes an electric utility that is required to make quarterly adjustments based on the fluctuating price of fuel or power to request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. **Section 5** further requires a utility that receives approval to make any quarterly adjustments to provide its customers with written notice that includes information relating to when the adjustments will be reviewed by the Commission. **Section 5** also authorizes the Commission to approve, upon a showing of good cause, certain additional quarterly adjustments for a public utility which purchases natural gas for resale and an electric utility which has received approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. **Sections 6 and 7** of this bill provide that a public utility which purchases natural gas for resale or an electric utility which has received approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment is not eligible to apply for any additional adjustment to its deferred energy accounting adjustment in its annual deferred energy accounting adjustment application.

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

Section 1. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in subsections ~~[8 and]~~ 9 ***and 11*** of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

(a) The manner of giving notice in each type of proceeding; and

(b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in paragraph (f) of subsection 1 of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application pursuant to NRS 704.187.

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 2. NRS 704.062 is hereby amended to read as follows:

704.062 "Application to make changes in any schedule" and "application" include, without limitation:

1. A general rate application;

2. An application to recover the ~~[~~increased~~]~~ cost of purchased fuel, purchased power, or natural gas purchased for resale; ~~[~~and~~]~~

3. An annual deferred energy accounting adjustment application ~~[.]~~ ***; and***

4. An annual rate adjustment application.

Sec. 3. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in subsections ~~[~~8 and~~]~~ 9 ***and 11*** of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale, an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application; and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 4. NRS 704.100 is hereby amended to read as follows:

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

(a) A public utility shall not make changes in any schedule, unless the public utility:

(1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of paragraph (f).

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110

based on changes in the public utility's recorded costs of natural gas purchased for resale.

(c) An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection ~~[9]~~ ***10*** of NRS 704.110.

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

(e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

(f) Except as otherwise provided in paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed $2,500:

(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

(h) In making the determination pursuant to paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 5. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to determine whether to approve or disapprove the proposed changes. If an

electric utility files such an application and the application is a general rate application or an annual deferred energy accounting adjustment application, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2010, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in June 2011, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had not filed a general

rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of $2,000,000 or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.

➥ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, a quarterly rate adjustment pursuant to subsection 8 or ~~[9,]~~ ***10,*** any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility which is required to adjust its rates on a quarterly basis pursuant to subsection ~~[9;]~~ ***10;*** or

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis ~~[between annual rate adjustment applications]~~ pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. ***A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the***

application is filed with the Commission. The Commission may approve the request if the Commission finds that ~~[the quarterly adjustment]~~ approval of the request is in the ~~[best interest of the]~~ public ~~[.]~~ interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of a public utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 2.5 cents per therm of natural gas. ~~[The Commission shall not approve a deferred energy accounting adjustment if]~~ If the balance of the public utility's deferred account varies by less than 5 percent from the public utility's annual recorded costs of natural gas which are used to calculate quarterly rate adjustments ~~[,]~~ , the deferred energy accounting adjustment must be set to zero cents per therm of natural gas.

9. If the Commission approves ~~[such]~~ a request ~~[:]~~ ***to make any rate adjustments on a quarterly basis pursuant to subsection 8:***

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment **.** ~~[between annual rate adjustment applications.]~~ A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; ~~[and]~~

(IV) ***A statement that the transactions and recorded costs of natural gas which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual rate adjustment application pursuant to paragraph (d); and***

(V) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment ~~[, each deferred energy accounting adjustment]~~ and ~~[~~a review of~~]~~ the transactions and recorded costs of natural gas included in each quarterly ~~[~~rate adjustment~~]~~ ***filing*** and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

~~[~~9.~~]~~ ***10.*** An electric utility shall adjust its rates on a quarterly basis based on changes in the ~~[~~public~~]~~ ***electric*** utility's recorded costs of purchased fuel or purchased power **.** ~~[~~in the following manner:~~]~~ ***In addition to adjusting its rates on a quarterly basis, an electric utility may request approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment. The Commission shall approve or deny such a request not later than 120 days after the application is filed with the Commission. The Commission may approve the request if the Commission finds that*** ~~[the quarterly adjustment]~~ ***approval of the request is in the*** ~~[best interest of the]~~ ***public*** ~~[.]~~ ***interest. If the Commission approves a request to make quarterly adjustments to the deferred energy accounting adjustment of an electric utility pursuant to this subsection, any quarterly adjustment to the deferred energy accounting adjustment must not exceed 0.25 cents per kilowatt-hour of electricity.*** ~~[The Commission shall not approve a deferred energy accounting adjustment if]~~ ***If the balance of the electric utility's deferred account varies by less than 5 percent from the electric utility's annual recorded costs for purchased fuel or purchased power which are used to calculate quarterly rate adjustments*** ~~[.]~~***, the deferred energy accounting adjustment must be set to zero cents per kilowatt-hour of electricity.***

11. A quarterly rate adjustment ~~[to a deferred energy accounting adjustment]~~ ***filed pursuant to subsection 10 is subject to the following requirements:***

(a) ~~[An]~~ ***The*** electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. ***The first quarterly adjustment to a deferred energy accounting adjustment must be made pursuant to an order issued by the Commission approving the application of an electric utility to make quarterly adjustments to its deferred energy accounting adjustment.*** A quarterly rate adjustment ~~*[to a deferred energy accounting adjustment]*~~ is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) ~~[Each]~~ ***The*** electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; ~~[and]~~

(IV) ***A statement that the transactions and recorded costs of purchased fuel or purchased power which are the basis for any quarterly rate adjustment will be reviewed for reasonableness and prudence in the next proceeding held by the Commission to review the annual deferred energy accounting adjustment application pursuant to paragraph (d); and***

(V) Any other information required by the Commission.

(c) ~~[An]~~ ***The*** electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment ~~*[, each deferred energy accounting adjustment]*~~ and ~~[a review of]~~

the transactions and recorded costs of purchased fuel and purchased power included in each quarterly ~~[rate adjustment]~~ ***filing*** and the annual deferred energy accounting adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

~~[10.]~~ ***12.*** If an electric utility files an annual deferred energy accounting adjustment application pursuant to subsection ~~[9]~~ ***11*** and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

~~[11.]~~ ***13***. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

~~[12.]~~ ***14.*** In regard to any rate or schedule approved or disapproved pursuant to this section, the Commission may, after a hearing:

(a) Upon the request of the utility, approve a new rate but delay the implementation of that new rate:

(1) Until a date determined by the Commission; and

(2) Under conditions as determined by the Commission, including, without limitation, a requirement that interest charges be included in the collection of the new rate; and

(b) Authorize a utility to implement a reduced rate for low-income residential customers.

~~[13.]~~ ***15. The Commission may, upon request and for good cause shown, permit a public utility which purchases natural gas for resale or an electric utility to make a quarterly adjustment to its deferred energy accounting adjustment in excess of the maximum allowable adjustment pursuant to subsection 8 or 10.***

16. A public utility which purchases natural gas for resale or an electric utility that makes quarterly adjustments to its deferred energy accounting adjustment pursuant to subsection 8 or 10 may submit to the Commission for approval an application to discontinue making quarterly adjustments to its deferred energy accounting adjustment and to subsequently make annual adjustments to its deferred energy accounting adjustment. The Commission may approve an application submitted pursuant to this subsection if the Commission finds that approval of the application is in the [best interest of the] public [.] interest.

17. As used in this section:

(a) ***"Deferred energy accounting adjustment" means the rate of a public utility which purchases natural gas for resale or an electric utility that is calculated by dividing the balance of a deferred account during a specified period by the total therms or kilowatt-hours which have been sold in the geographical area to which the rate applies during the specified period.***

(b) "Electric utility" has the meaning ascribed to it in NRS 704.187.

[(b)] ***(c)*** "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.

[(c)] ***(d)*** "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.

Sec. 6. NRS 704.185 is hereby amended to read as follows:

704.185 1. Except as otherwise provided in subsection 8 of NRS 704.110, a public utility which purchases natural gas for resale may record upon its books and records in deferred accounts all cost increases or decreases in the natural gas purchased for resale. Any public utility which uses deferred accounting to reflect changes in costs of natural gas purchased for resale shall include in its annual report to the Commission a statement showing the allocated rate of return for each of its operating departments in Nevada which uses deferred accounting.

2. [If the rate of return for any department using deferred accounting pursuant to subsection 1 is greater than the rate of return allowed by the Commission in the last rate proceeding, the Commission shall order the utility which recovered any costs of natural gas purchased for resale through rates during the reported period to transfer to the next energy adjustment period that portion of such recovered amounts which exceeds the authorized rate of return.

~~3.~~ A public utility which purchases natural gas for resale may request approval from the Commission to record upon its books and records in deferred accounts any other cost or revenue which the Commission deems appropriate for deferred accounting and which is not otherwise subject to the provisions of ~~[subsections]~~ ***subsection*** 1 ***.*** ~~[and 2.]~~ If the Commission approves such a request, the Commission shall determine the appropriate requirements for reporting and recovery that the public utility must follow with regard to each such deferred account.

~~[4.]~~ ***3.*** When a public utility which purchases natural gas for resale files an ***annual rate adjustment application or an annual deferred energy accounting adjustment*** application ***,*** ~~[to clear its deferred accounts,]~~ the proceeding regarding the application must include a review of the transactions and recorded costs of natural gas included in the application. There is no presumption of reasonableness or prudence for any transactions or recorded costs of natural gas included in the application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

4. A public utility which purchases natural gas for resale and which has received approval from the Commission to make quarterly adjustments to a deferred energy accounting adjustment pursuant to subsection 8 of NRS 704.110 is not eligible to request an adjustment to its deferred energy accounting adjustment in its annual rate adjustment application.

Sec. 7. NRS 704.187 is hereby amended to read as follows:

704.187 1. An electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. ~~[If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.]~~

3. Except as otherwise provided in this section, an electric utility using deferred accounting shall file an annual deferred energy accounting adjustment application on or before March 1, 2008, and on or before March 1 of each year thereafter.

4. ***An electric utility that purchases fuel or power and has received approval from the Commission to make quarterly adjustments to its deferred energy accounting adjustment pursuant to***

subsection 10 of NRS 704.110 is not eligible to request an adjustment to its deferred energy accounting adjustment in its annual deferred energy accounting adjustment application.

5. As used in this section:

(a) "Annual deferred energy accounting adjustment application" means an application filed by an electric utility pursuant to this section and subsection ~~[9]~~ ***11*** of NRS 704.110.

(b) "Costs for purchased fuel and purchased power" means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the Commission determines are not recoverable pursuant to subsection ~~[9]~~ ***11*** of NRS 704.110.

(c) "Electric utility" means any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of $250,000,000 or more in this State.

➥ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

Sec. 8. 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.

Amendment No. 569 to Assembly Bill No. 215 makes some clarifying changes to the language regarding deferred energy accounting adjustments filed with the Public Utilities Commission of Nevada.

This is the amount of money built up in the fund by both Southwest Gas and NV Energy. It amounts to a lot of money and they would like to refund it to the customers sooner.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 226.

Bill read second time and ordered to third reading.

Assembly Bill No. 350.

Bill read second time and ordered to third reading.

Assembly Bill No. 352.

Bill read second time and ordered to third reading.

Assembly Bill No. 355.
Bill read second time and ordered to third reading.

Assembly Bill No. 429.
Bill read second time and ordered to third reading.

Assembly Bill No. 441.
Bill read second time and ordered to third reading.

Assembly Bill No. 538.
Bill read second time and ordered to third reading.

Assembly Bill No. 556.
Bill read second time and ordered to third reading.

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

Senate in recess at 11:47 a.m.

SENATE IN SESSION

At 1:14 p.m.
President Krolicki presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 211 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

Senator Parks moved that Senate Bill No. 497 just reported out of committee be placed on the Second Reading File for this legislative day.
Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 497.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.
Bill read third time.
Roll call on Assembly Bill No. 25:
YEAS—21.
NAYS—None.

Assembly Bill No. 25 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 36.
Bill read third time.

Roll call on Assembly Bill No. 36:
YEAS—21.
NAYS—None.

Assembly Bill No. 36 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 102.
Bill read third time.
Roll call on Assembly Bill No. 102:
YEAS—21.
NAYS—None.

Assembly Bill No. 102 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 181.
Bill read third time.
Roll call on Assembly Bill No. 181:
YEAS—21.
NAYS—None.

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

Assembly Bill No. 201.
Bill read third time.
Roll call on Assembly Bill No. 201:
YEAS—21.
NAYS—None.

Assembly Bill No. 201 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 214.
Bill read third time.
Roll call on Assembly Bill No. 214:
YEAS—21.
NAYS—None.

Assembly Bill No. 214 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 537.
Bill read third time.

Roll call on Assembly Bill No. 537:
YEAS—21.
NAYS—None.

Assembly Bill No. 537 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

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 Askar Chukmaitov.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and chaperones from the Katherine Dunn Elementary School: Jacob Baldwin, Anthony Berumen, Bianca Beterano, Elaina Brito, Kyla Burbank, Eugenio Chavez, Ricardo Cortez, Issac Echegoyen, Emily Fernandez, Keith Ferrer, Alyssa Garcia, Tony Geronimo, Anthony Gomez Martinez, Jose Gonzalez, Rachel Gonzalez, Sabrina Graves, Jack Griffin, Leo Guzman, Kenzie Hawley, Juan Hernandez, Celestina Jimenez, Sam Kerivan, Katie Kuczynski, Austin Lewis, Dakota Lora, David Mahe, Genae Marcantonia, Alexix Marquez, Evan Martinez, Karen Martinez, Anthony Montenegro, Joey Obeirne, Irene Olivas, Gustavo Padilla Barrera, Hunter Petson, Jobany Rangel Romo, Jake Rankin, Denise Rather, Lillianna Reyes, Selma Obles, Max Schumacher, Elijah Shelton, Tallon Short, Carlee Sireika, Kyle Southworth, Anna Staggs, Britney Torres, Juan Torres Segoviano, Renee Trainer, Michael Vandeventer, Atley Weems, Kelly Wilkie, Justin Williams, Wyatt Williams, Wyatt Wormington, Whitney Hawley, Jessica Ziegler, Marquez Gabrilla, Paula Torres, Diana Reyes, Laurie Johns, Sean Higgins and Shannon Ramacciotti.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Patty Allen, Chet Bunch, Lona Domenici, Alexis DuPriest, Brooke DuPriest, Katy DuPriest, Lori DuPriest, Paige DuPriest, and Rob DuPriest.

Senator Horsford moved that the Senate adjourn until Tuesday, May 10, 2011, at 11:30 a.m.

Motion carried.

Senate adjourned at 1:36 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETY-THIRD DAY

CARSON CITY (Tuesday), May 10, 2011

Senate called to order at 11:40 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Gracious God, who has the words of eternal life, help us to cultivate proper speech.

May we learn to say what we mean and mean what we say. And may it be worth saying.

Teach us economy in speech that neither wounds nor offends, that affords light without generating heat.

Bridle our tongues lest they stampede us into utterances of which later, we shall be ashamed.

This we ask in Your Name.

AMEN.

Pledge of Allegiance to the Flag.

National Anthem sung by the Carson High School Concert Choir.

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

Senate in recess at 12:10 p.m.

SENATE IN SESSION

At 12:22 p.m.

President Krolicki presiding.

Quorum present.

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.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 9, 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. 490, 492, 500.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 75; Assembly Bill No. 211 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Wiener moved that Senate Bill No. 497 be placed at the top of the General File.

Motion carried.

Senator Wiener moved to proceed to the General File at this time.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 497.

Bill read third time.

Remarks by Senators Parks, Settelmeyer, Kieckhefer, McGinness, Roberson, Cegavske, Brower, Denis, Gustavson, Halseth and Hardy.

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

SENATOR PARKS:

Senate Bill No. 497 revises the districts for election of members of the Nevada Senate and Assembly and of representatives in the United States House of Representatives.

The measure retains a 21-member Senate. The ideal population in each Senate district is 128,598. The overall range of population deviation is 0.93 percent. The plan eliminates the multi-member Senate districts in Clark County, and includes 15 Senate districts wholly within Clark County and three districts wholly within Washoe County. The remaining three districts contain parts of Clark and Washoe Counties, and the rural counties.

The measure retains a 42-member Assembly. The ideal population in each Assembly district is 64,299. The overall range of population deviation is 1.62 percent. Two Assembly districts are nested within a single Senate district. The plan includes 30 Assembly districts wholly within Clark County and six districts wholly within Washoe County. The remaining six districts contain parts of Clark and Washoe Counties, and the rural counties.

Based on the 2010 United States Census, Nevada has been apportioned a fourth Congressional district. The ideal population in each district is 675,138. The overall range of population deviation is 0.00 percent. Two Congressional districts are wholly contained in Clark County. A third district contains a portion of Clark County and all or parts of rural counties. A fourth district contains all of Washoe County and all or parts of rural counties.

The bill provides for the use of the term "reelect" in the 2012 General Election under certain circumstances. The measure also includes a severability clause.

The bill contains various effective dates for the purposes of filing for office and for nominating and electing members of the Nevada Legislature and the U.S. House of Representatives and for other purposes.

SENATOR SETTELMEYER:

Thank you, Mr. President. I rise in opposition to Senate Bill No. 497. My first objection to this bill is the law itself. It is within our rules, 13.5, compliance with the Voting Rights Act. Currently, in the State of Nevada, 26 percent of the population is Hispanic. They represent 46 percent of the population growth from our last census. Currently, Hispanics in our Senate Chambers have only two seats. The current plan we are discussing today, gives them no clear chances to increase their representation. I object to that. The Republican plan provides four seats, doubling the Hispanics representation. I feel the Democratic plan fractures the Hispanic community. The deviations that were mentioned before on the Democratic plan are unacceptable. In this electronic age, the deviations in the Democratic plan are twice that for the GOP plan. One man, one vote, yet the deviations are double. Section 54 renumbers the districts, yet six GOP and two Democrats are renumbered. Some renumbering is inevitable in the system. If you look at the Senate, there are two double districts. Those would have to be renumbered. Other than that, no one has to have their numbers changed. I am the representative for the Capital Senatorial District, also known as Senate District No. 17. The provisions of 294A330 are

still adhered to. Within this bill, in Section 54, those 8 individuals will not be able to use the term "reelect." Therefore, I oppose this bill.

SENATOR KIECKHEFER:

For some of the same reasons my colleague spoke of, I oppose this bill as well. It violates the Voting Rights Act and the Equal Protection Clause of the U.S. Constitution. This redistricting plan creates a wedge within the Hispanic community and undermines their ability to elect representatives to this body by fracturing pieces of their community into majority white districts. The Voting Rights Act and the Equal Protection Clause state that we must provide equal representation to members of this State. The plan before us does not do that. The Voting Rights Act states that if it is possible to do so, we must do so. For that reason, I believe this does not conform to the Voting Rights Act. For that reason, I encourage all of the members of this body to vote against it.

SENATOR MCGINNESS:

The Democrat State Senate redistricting plan is certainly interesting. It creates 13 districts likely to elect Democrat candidates. It creates five districts likely to elect Republican candidates. It creates three competitive districts. This Session I thought the goal was to work on creating fair districts where everyone could win. Since 2002, Republicans held a majority in the State Senate for six years and Democrats held a majority for four years. Those involved in redistricting 10 years ago did a good job, although at the time I wondered about it. They drew districts that were fair. They created several competitive districts that have gone back and forth between Republican and Democrat. Ten years ago, our redistricting plan let the voters decide which party would be in the majority. But, not the Democrat plan this year. They want 13 safe Democrat districts. They want 62 percent of the seats in the State Senate guaranteed. For these reasons and others I will vote against Senate Bill No. 497.

SENATOR ROBERSON:

The Democrats' congressional map should outrage anyone who believes that a state's congressional delegation should fairly represent the people in the state. This unfair and blatantly partisan plan virtually guarantees that Democrats will hold 75 percent of the congressional seats in Nevada for the next decade. It is an outrage. By drawing districts that ensure that Democrats will win three out of four congressional seats in every election for the next decade, our colleagues on the other side have shown their true colors. Our colleagues on the other side of the aisle think they should decide which party represents us in Congress, not the people. What are they afraid of, and who have they harmed with this unfair plan? It is clear that those who support the Democrats' congressional plan are afraid to let the people decide who will represent us in Congress. Their plan virtually guarantees that only Democrat primary voters in three districts and only Republican primary voters in one district will decide who represents us in Congress. In 2010, Republican congressional candidates received 6 percent more votes than Democratic candidates in Nevada. Nevadans elected two Republicans and only one Democrat to Congress. The Democrats have brought forth a plan that rejects the will of Nevada voters and creates a plan that ensures that three Democrats and only one Republican will represent Nevada in the U.S. House of Representatives. Under the Democrat plan, there is no role for independent voters. The Democrats are telling more than 20 percent of Nevadans who are registered non-partisan or third party that their votes will not count in any of the four congressional districts that they have drawn. In their haste to draw an unfair congressional map, the Democrats have not only forgotten independents; they have left Hispanics out in the cold. I will vote against this plan because it is a blatant power grab that fails to pass the smell test.

SENATOR CEGAVSKE:

Thank you, Mr. President. I stand in opposition to Senate Bill No. 497 for the reasons that have been stated by my colleagues. We are told, and it is written, that we are supposed to look at the Voting Rights Act. The plan that is before us violates that law. It is an illegal plan. The Republican plan was fair. We asked, "Does it fit within the Voting Rights Act and is it fair?" Yes, we passed both of those tests. We never had a fair chance at having our bill thoroughly discussed. Our plan did not give either party a monopoly on the power for a decade as it has

been the last ten years. Our Republican plan respected the Voting Rights Act and legally created one, majority-Hispanic congressional district, four majority-Hispanic State Senate seats, and eight majority Hispanic Assembly seats. I urge your opposition to this bill.

SENATOR BROWER:

I agree with the comments of the previous speakers. I rise to offer a different perspective on this bill. I have been responsible for enforcing the Voting Rights Act and the Civil Rights Act. Having that responsibility and carrying that out, was one of the great privileges of serving as our United States Attorney. The history of the Voting Rights Act and Civil Rights Act goes back many decades. It was an honor during my time in Washington D.C. with the Department of Justice to sit in the very conference room on the fifth floor of the main justice building where Attorney General Robert F. Kennedy maintained his office, and where the strategy for enforcing the Voting Rights Act and the Civil Rights Act during the 1960s was designed by the Department of Justice, led by Attorney General Kennedy and then Deputy Attorney General Byron White, later an Associate Justice on the Supreme Court. It was the Department of Justice that went to the South when the southern governments would not do it, the southern governors would not do it, and the southern judges would not do it to make certain that the newly enacted Voting Rights Act and the newly enacted Civil Rights Act were enforced. It was not a popular thing to do at that time as we all know from our history. But it was our Department of Justice as mandated by our Congress that went to the South to make certain that the Voting Rights Act and the Civil Rights Act were enforced. I know a little about the Voting Rights Act. This bill, for many of the reasons stated, does not comply with the Voting Rights Act of 1965. Specifically, the fracturing issue that has been described which appears to fracture the Hispanic community in this State, particularly in southern Nevada in a way that undermines the ability of the Hispanic community to have its due representation in these bodies, clearly violates the Voting Rights Act. For that reason, I cannot support this bill.

SENATOR DENIS:

As I listen to the comments, I appreciate my colleagues desire to help my community. However, I know my community. When you discuss the 50 percent plus districts under the Voting Rights Act, you have to show that white voters vote as a block to defeat the non-white candidate. In the State of Nevada, we have elected at least three Latinos or Latinas in this last election, alone. In Assembly district numbers 27, 42 and 18, which are Latino influenced districts, but they are not majority districts. Nevada has proven that Hispanics and other minority candidates have, and can be elected in minority influenced districts with far less than 50 percent voting age population. Packing minorities into as few districts as possible to achieve a standard that has been proven unnecessary dilutes minority influence in remaining districts. We have fought to have an influence in the way things happen in the State of Nevada. By packing us into one district or just a few, we do not have that opportunity. The plan offered today creates a record number of districts that have proven thresholds to elect Hispanics and other minority candidates. That is why it has been supported by countless advocates from our community. No community advocates have favored the Republican packaging scheme.

SENATOR GUSTAVSON:

I oppose this partisan plan set forth by the Democrat Assembly because it exploits the voting process. The process of campaigning for a seat in this Body should be fair and equitable, but Democrats prefer a system of gerrymandering to choose their voters, even before voters have had the opportunity to choose them, thereby minimizing the role of voters in the political process. The Democrat Assembly plan became evident, when at the last minute they revised my map to benefit them and undermine me. Furthermore, I oppose the Democrat Assembly pan because it illegally "fractures" and "packs" Hispanic voters. This plan violates the Voting Rights Act and it is a slap in the face of democracy. Out of 42 seats in the Assembly, the Democrat plan creates only three majority-Hispanic districts. Three districts, how do they achieve this? First, they create two districts where they illegally pack Hispanics. One of their Assembly districts is 73 percent Hispanic and another is 71 percent Hispanic. The Voting Rights Act makes "packing" illegal. "Packing" occurs when a minority group is concentrated into one or more districts so that the group constitutes an overwhelming majority of those districts, thus minimizing the number

of districts in which the minority could elect candidates of its choice. Our Republican plans for Congress, the State Senate and the Assembly do not "pack" Hispanics into districts, nor do our plans "fracture" the Hispanic community. We know that Democrats are guilty of "packing" and "fracturing" because our plan created eight majority-Hispanic Assembly districts. In our plan, no majority-Hispanic Assembly district has a population greater than 59 percent. It is clear that Hispanics deserve far more than three majority-Hispanic seats in the Democrat Assembly plan. As has been stated before the Hispanic community represents 26 percent of Nevada's population. As my colleague from Clark County has stated, Hispanics can be elected in districts that do not have a majority of Hispanic population. I am requesting a hearing and discussion of our plan. I will be voting against the Democrat Assembly plan because it illegally "packs" and "fractures" the Hispanic community. This plan goes against the Voting Rights Act.

SENATOR HALSETH:

Thank you, Mr. President. The Democrat Assembly plan is unfair to the people of Nevada. The Democrat Assembly plan creates 26 districts likely to elect Democrat candidates only creates eight districts likely to elect eight Republican candidates. The Democrat Assembly plan creates eight competitive districts. Is that fair?

Does this plan reflect the views of the Nevada electorate?

In 2010, the Republican gubernatorial candidate received 12 percent more votes than the Democrat.

In 2010, the Republican congressional candidates received 6 percent more votes than the Democrat congressional candidates.

In 2010, Republican State Senate candidates received 15 percent more votes than Democrat State Senate Candidates.

In 2010, Republican Assembly candidates received 10 percent more votes than Democrat Assembly candidates.

In the Democrat Assembly map, 76 percent of the "safe" districts are Democrat and 24 percent of the "safe" districts are Republicans.

I cannot remember a single election when Democrat Assembly candidates received 52 percent more votes than Republican Assembly candidates.

This is not a plan, it is a sham.

I will be voting against the Democrat redistricting plan because it is over-the-top unfair.

SENATOR HARDY:

I appreciate the words of my colleagues. My friends on the other side aisle have chosen to put forth a Congressional map that, quite simply, does not comply with what I consider to be a critical part of the Voting Rights Act.

The map they have chosen ignores the Voting Rights Act's intent to protect the sacred right of fairness in representation. The Voting Rights Act is one of the crown jewels of the civil rights movement.

In Clark County most of the Hispanic community is concentrated in a geographically compact area. You can clearly draw a line encompassing it. We did this in our Republican plan. We created a congressional district that is 50.7 percent Hispanic.

The Democratic plan did not even come close to drawing a Congressional Hispanic majority population district required by the Voting Rights Act.

This plan creates four districts in which whites make up a significant majority. In their proposed congressional district where the Hispanic community has the largest representation, the Hispanic population is still outnumbered by the white community by more than a two-to-one margin.

Any plan that does not begin with an attempt to create a majority-Hispanic district in Clark County fails to adhere to the letter and spirit of the voting Rights Act. It is something that I cannot ignore, in good conscience. According to the Census, more than one out of every four Nevadans is Hispanic. That is a fact.

In our haste to score potential local partisan victories, we should not forget the law, as the drafters of the Democrats' maps appear to have done. Does it not make sense to create a majority Congressional Hispanic district if you can, even if not already compelled to do so by the Voting Rights Act?

Of course, it makes sense and is in keeping with our cherished principles of equal representation under the law in this blessed nation.

It does not make sense to sacrifice the Hispanic people in the quest for three safe Democratic Congressional districts. Turning our back on our vibrant Hispanic brothers and sisters should not this trump all other considerations.

I will vote against this plan because this bill fails to follow the law, fails to adequately represent the Hispanic community and fails to use good common sense. I will vote against this plan because it sacrifices everything else for potential partisan gain. This is not legal and it is not right.

Roll call on Senate Bill No. 497:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Senate Bill No. 497 having received a constitutional majority, Mr. President declared it passed.

Senator Wiener moved that all necessary rules be suspended and that Senate Bill No. 497 be immediately transmitted to the Assembly.

Motion carried unanimously.

Senate Bill No. 445.

Bill read third time.

Roll call on Senate Bill No. 445:

YEAS—21.

NAYS—None.

Senate Bill No. 445 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 450.

Bill read third time.

Roll call on Senate Bill No. 450:

YEAS—21.

NAYS—None.

Senate Bill No. 450 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 472.

Bill read third time.

Roll call on Senate Bill No. 472:

YEAS—21.

NAYS—None.

Senate Bill No. 472 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 481.
Bill read third time.
Roll call on Senate Bill No. 481:
YEAS—21.
NAYS—None.

Senate Bill No. 481 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 6.
Bill read third time.
Roll call on Assembly Bill No. 6:
YEAS—21.
NAYS—None.

Assembly Bill No. 6 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 57.
Bill read third time.
Roll call on Assembly Bill No. 57:
YEAS—21.
NAYS—None.

Assembly Bill No. 57 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 150.
Bill read third time.
Roll call on Assembly Bill No. 150:
YEAS—21.
NAYS—None.

Assembly Bill No. 150 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 194.
Bill read third time.
Roll call on Assembly Bill No. 194:
YEAS—21.
NAYS—None.

Assembly Bill No. 194 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 215
Bill read third time.
Roll call on Assembly Bill No. 215:
YEAS—21.
NAYS—None.

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

Assembly Bill No. 226.
Bill read third time.
Roll call on Assembly Bill No. 226:
YEAS—21.
NAYS—None.

Assembly Bill No. 226 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 350.
Bill read third time.
Roll call on Assembly Bill No. 350:
YEAS—21.
NAYS—None.

Assembly Bill No. 350 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bills Nos. 352, 355, 429, 441, 538, 556, be taken from the General File and be placed on the General File on the next agenda.
Motion carried.

Senator Horsford moved that Senate Bill No. 500; Assembly Bills Nos. 490, 492, 500, 568 be taken from the First Reading File and be placed on the First Reading File on the next agenda.
Motion carried.

Senator Horsford moved that Assembly Bills Nos. 9, 107, 109, 161, 244, 269, 271, 284, 321, 408, be taken from the Second Reading File and be placed on the Second Reading File on the next agenda.
Motion carried.

Senator Horsford moved that the Senate recess until 2:30 p.m.
Motion carried.

Senate in recess at 1:05 p.m.

SENATE IN SESSION

At 2:51 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 10, 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. 497; Assembly Bill No. 568.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Legislative Operations and Elections:

Senate Bill No. 500—AN ACT relating to elections; revising the legislative districts from which the members of the Senate and Assembly are elected; revising the districts from which Representatives in the Congress of the United States are elected; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 490.

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

Motion carried.

Assembly Bill No. 492.

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

Motion carried.

Assembly Bill No. 500.

Senator Wiener moved that Senate Standing Rule No. 40 be suspended and that the bill be referred to the Committee on Revenue.

Motion carried.

Assembly Bill No. 568.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 352, 355, 429, 441, 538, 556, be taken from the General File and placed on the General File on the third agenda.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 9, 107, 109, 161, 244, 269, 271, 284, 321, 408, be taken from the Second Reading File and placed on the Second Reading File on the third agenda.

Motion carried.

Senator Horsford moved that the Senate recess until 3:30 p.m.

Motion carried.

Senate in recess at 2:58 p.m.

SENATE IN SESSION

At 3:46 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 568, 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 Natural Resources, to which was referred Assembly Concurrent Resolution No. 3, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

MARK A. MANENDO, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, that the reading of the bill so far be considered to have fulfilled the requirement for second reading, and that Assembly Bill No. 568 be declared an emergency measure under the Constitution and placed on third reading for final passage on the top of General File.

Motion carried unanimously.

SECOND READING AND AMENDMENT

Assembly Bill No. 9.

Bill read second time and ordered to third reading.

Assembly Bill No. 107.

Bill read second time and ordered to third reading.

Assembly Bill No. 109.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 558.

"SUMMARY—Enacts the amendments to Article 9 of the Uniform Commercial Code. (BDR 8-330)"

"AN ACT relating to secured transactions; enacting the amendments to Article 9 of the Uniform Commercial Code; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law contains Article 9 of the Uniform Commercial Code, the uniform law governing secured transactions. This bill enacts the 2010 amendments to Article 9.

Sections 2-9 and 25 of this bill provide that the amendments to Article 9 become effective on July 1, 2013, and enact the transitional rules included in those amendments.

Section 10 of this bill enacts the uniform amendments to the definitions of certain terms which are defined for the purposes of Article 9.

Existing law provides that a secured party may perfect a security interest in electronic chattel paper by obtaining control of the electronic chattel paper. **Section 11** of this bill enacts the uniform amendments to the rule governing whether a secured party has such control.

Existing law provides that, in certain circumstances, the law of the jurisdiction in which a debtor is located governs the perfection and priority of a security interest. (NRS 104.9301) **Section 12** of this bill enacts the uniform amendments to the rules for determining the location of an organization that is organized under the law of the United States and the location of a branch or agency of a bank that is not organized under the law of the United States or a state.

Section 13 of this bill enacts the uniform amendments to the rules governing the perfection of a security interest in property covered by a certificate of title.

Section 14 of this bill enacts the uniform amendments governing the perfection of a security interest that attaches before a debtor changes location and the perfection of a security interest when a new debtor becomes bound by a security agreement entered into by another person.

Section 15 of this bill enacts the uniform amendments to certain provisions governing the circumstances under which a buyer of property takes the property free of security interests.

Section 16 of this bill enacts the uniform amendments to provisions concerning the priority of security interests created by a new debtor who becomes bound by a security agreement entered into by another person.

Sections 17 and 18 of this bill enact the uniform amendments to provisions governing the effectiveness of certain contractual terms when a person who has a security interest in certain payment rights enforces the security interest and disposes of the payment rights.

Existing law requires a financing statement to be filed to perfect a security interest in certain circumstances. (NRS 104.9310) To be sufficient, a financing statement must contain the name of the debtor. (NRS 104.9502) **Section 19** of this bill enacts the uniform amendments to the rules for determining whether a financing statement sufficiently provides the name of the debtor. **Section 20** of this bill enacts the uniform amendments to rules governing the effectiveness of a financing statement when, at the time the

financing statement was filed, the debtor's name was sufficiently provided but, at a later date, the debtor's name is no longer sufficiently provided.

Existing law provides that, if a financing statement states that the debtor is a transmitting utility, the financing statement does not lapse and is effective until a termination statement is filed. (NRS 104.9515) **Section 21** of this bill provides that such a financing statement does not lapse only if the initial financing statement states that the debtor is a transmitting utility.

Section 22 of this bill enacts the uniform amendments to the circumstances under which a filing office may refuse to accept a financing statement.

Existing law authorizes a debtor to file a correction statement if the debtor believes that a record indexed under the debtor's name is inaccurate or was wrongfully filed. Under existing law, the correction statement is informational and does not affect the effectiveness of a financing statement. (NRS 104.9518) **Section 23** of this bill enacts the uniform amendment that authorizes a secured party to file ~~[a]~~ **an information** statement ~~[of claim]~~ under certain circumstances.

Existing law provides for the rights of a secured party upon a default by a debtor. (NRS 104.9601-104.9628) **Section 24** of this bill enacts the uniform amendment to certain rights held by a person who has a security interest in a payment right secured by real property.

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

Section 1. Chapter 104 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in sections 2 to 9, inclusive, of this act, this article as amended applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2013.***

2. This article as amended does not affect an action, case or proceeding commenced before July 1, 2013.

Sec. 3. ***1. A security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under this article if, when this article as amended takes effect, the applicable requirements for attachment and perfection under this article as amended are satisfied without further action.***

2. Except as otherwise provided in section 5 of this act, if, immediately before July 1, 2013, a security interest is a perfected security interest, but the applicable requirements for perfection under this article as amended are not satisfied on July 1, 2013, the security interest remains perfected thereafter only if the applicable requirements for perfection under this article as amended are satisfied within 1 year after July 1, 2013.

Sec. 4. ***A security interest that is an unperfected security interest immediately before July 1, 2013, becomes a perfected security interest:***

1. Without further action, on that date if the applicable requirements for perfection under this article as amended are satisfied before or at that time; or

2. When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 5. *1. The filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this article as amended.*

2. This article as amended does not render ineffective an effective financing statement that, before July 1, 2013, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article before amendment. However, except as otherwise provided in subsections 3 and 4 and section 6 of this act, the financing statement ceases to be effective:

(a) If the financing statement is filed in this State, at the time the financing statement would have ceased to be effective had this article as amended not taken effect; or

(b) If the financing statement is filed in another jurisdiction, at the earlier of:

(1) The time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(2) June 30, 2018.

3. The filing of a continuation statement on or after July 1, 2013, does not continue the effectiveness of the financing statement filed before that date. However, upon the timely filing of a continuation statement on or after July 1, 2013, and in accordance with the law of the jurisdiction governing perfection as provided in this article as amended, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for the period provided by the law of that jurisdiction.

4. Subparagraph (2) of paragraph (b) of subsection 2 applies to a financing statement that, before July 1, 2013, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this article before amendment, only to the extent that this article as amended provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

5. A financing statement that includes a financing statement filed before July 1, 2013, and a continuation statement filed on or after July 1, 2013, is effective only to the extent that it satisfies the requirements of part 5 for an initial financing statement. A financing statement which indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of paragraph (b) of subsection 1 of NRS 104.9503. A financing statement

which indicates that the debtor is a trust or a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of paragraph (c) of subsection 1 of NRS 104.9503.

Sec. 6. ***1. The filing of an initial financing statement in the office specified in NRS 104.9501 continues the effectiveness of a financing statement filed before July 1, 2013, if:***

(a) The filing of an initial financing statement in that office would be effective to perfect a security interest under this article as amended;

(b) The pre-effective-date financing statement was filed in an office in another state; and

(c) The initial financing statement satisfies subsection 3.

2. The filing of an initial financing statement under subsection 1 continues the effectiveness of the pre-effective-date financing statement:

(a) If the initial financing statement is filed before July 1, 2013, for the period provided in NRS 104.9515, as it existed before July 1, 2013, with respect to an initial financing statement; and

(b) If the initial financing statement is filed on or after July 1, 2013, for the period provided in NRS 104.9515 with respect to an initial financing statement.

3. To be effective for purposes of subsection 1, an initial financing statement must:

(a) Satisfy the requirements of part 5 for an initial financing statement;

(b) Identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(c) Indicate that the pre-effective-date financing statement remains effective.

Sec. 7. ***1. In this section, "pre-effective-date financing statement" means a financing statement filed before July 1, 2013.***

2. On or after July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this article as amended. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

3. Except as otherwise provided in subsection 4, if the law of this State governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended on or after July 1, 2013, only if:

(a) The pre-effective-date financing statement and an amendment are filed in the office specified in NRS 104.9501;

(b) An amendment is filed in the office specified in NRS 104.9501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies subsection 3 of section 6 of this act; or

(c) An initial financing statement that provides the information as amended and satisfies subsection 3 of section 6 of this act is filed in the office specified in NRS 104.9501.

4. If the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under subsections 3 and 5 of section 5 of this act or section 6 of this act.

5. Whether or not the law of this State governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this State may be terminated on or after July 1, 2013, by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies subsection 3 of section 6 of this act has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this article as amended as the office in which to file a financing statement.

Sec. 8. ***A person may file an initial financing statement or a continuation statement under this part if:***

1. The secured party of record authorizes the filing; and

2. The filing is necessary under this part:

(a) To continue the effectiveness of a financing statement filed before July 1, 2013; or

(b) To perfect or continue the perfection of a security interest.

Sec. 9. ***This article as amended determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this article before amendment determines priority.***

Sec. 10. NRS 104.9102 is hereby amended to read as follows:

104.9102 1. In this Article:

(a) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(b) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance; for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of; for services rendered or to be rendered; for a policy of insurance issued or to be issued; for a secondary obligation incurred or to be incurred; for energy provided or to be provided; for the use or hire of a vessel under a charter or other contract; arising out of the use of a credit or charge card or information contained on or for use with the card; or as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include rights to payment evidenced by

chattel paper or an instrument; commercial tort claims; deposit accounts; investment property; letter-of-credit rights or letters of credit; or rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(c) "Account debtor" means a person obligated on an account, chattel paper or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(d) "Accounting," except as used in "accounting for," means a record:

(1) Authenticated by a secured party;

(2) Indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(3) Identifying the components of the obligations in reasonable detail.

(e) "Agricultural lien" means an interest, other than a security interest, in farm products:

(1) Which secures payment or performance of an obligation for:

(I) Goods or services furnished in connection with a debtor's farming operation; or

(II) Rent on real property leased by a debtor in connection with its farming operation;

(2) Which is created by statute in favor of a person that:

(I) In the ordinary course of its business furnished goods or services to a debtor in connection with his or her farming operation; or

(II) Leased real property to a debtor in connection with his or her farming operation; and

(3) Whose effectiveness does not depend on the person's possession of the personal property.

(f) "As-extracted collateral" means:

(1) Oil, gas or other minerals that are subject to a security interest that:

(I) Is created by a debtor having an interest in the minerals before extraction; and

(II) Attaches to the minerals as extracted; or

(2) Accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals in which the debtor had an interest before extraction.

(g) "Authenticate" means:

(1) To sign; or

(2) ~~[To execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify himself or herself and adopt or accept a record.]~~ ***With present intent to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol or process.***

(h) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions and trust companies.

(i) "Cash proceeds" means proceeds that are money, checks, deposit accounts or the like.

(j) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. ***The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.***

(k) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in or a lease of specific goods or of specific goods and software used in the goods, or a security interest in or a lease of specific goods and a license of software used in the goods. The term does not include charters or other contracts involving the use or hire of a vessel, or records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper. As used in this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods.

(l) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(1) Proceeds to which a security interest attaches;

(2) Accounts, chattel paper, payment intangibles and promissory notes that have been sold; and

(3) Goods that are the subject of a consignment.

(m) "Commercial tort claim" means a claim arising in tort with respect to which:

(1) The claimant is an organization; or

(2) The claimant is a natural person and the claim:

(I) Arose in the course of the claimant's business or profession; and

(II) Does not include damages arising out of personal injury to or the death of a natural person.

(n) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(o) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option or another contract if the contract or option is:

(1) Traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(2) Traded on a foreign commodity board of trade, exchange or market, and is carried on the books of a commodity intermediary for a commodity customer.

(p) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(q) "Commodity intermediary" means a person that:

(1) Is registered as a futures commission merchant under federal commodities law; or

(2) In the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(r) "Communicate" means:

(1) To send a written or other tangible record;

(2) To transmit a record by any means agreed upon by the persons sending and receiving the record; or

(3) In the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.

(s) "Consignee" means a merchant to which goods are delivered in a consignment.

(t) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(1) The merchant:

(I) Deals in goods of that kind under a name other than the name of the person making delivery;

(II) Is not an auctioneer; and

(III) Is not generally known by its creditors to be substantially engaged in selling the goods of others;

(2) With respect to each delivery, the aggregate value of the goods is $1,000 or more at the time of delivery;

(3) The goods are not consumer goods immediately before delivery; and

(4) The transaction does not create a security interest that secures an obligation.

(u) "Consignor" means a person that delivers goods to a consignee in a consignment.

(v) "Consumer debtor" means a debtor in a consumer transaction.

(w) "Consumer goods" means goods that are used or bought for use primarily for personal, family or household purposes.

(x) "Consumer-goods transaction" means a consumer transaction to the extent that:

(1) A natural person incurs an obligation primarily for personal, family or household purposes; and

(2) A security interest in consumer goods or in consumer goods and software that is held or acquired primarily for personal, family or household purposes secures the obligation.

(y) "Consumer obligor" means an obligor who is a natural person and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes.

(z) "Consumer transaction" means a transaction to the extent that a natural person incurs an obligation primarily for personal, family or household purposes; a security interest secures the obligation; and the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer-goods transactions.

(aa) "Continuation statement" means a change of a financing statement which:

(1) Identifies, by its file number, the initial financing statement to which it relates; and

(2) Indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(bb) "Debtor" means:

(1) A person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(2) A seller of accounts, chattel paper, payment intangibles or promissory notes; or

(3) A consignee.

(cc) "Deposit account" means a demand, time, savings, passbook or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(dd) "Document" means a document of title or a receipt of the type described in subsection 2 of NRS 104.7201.

(ee) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(ff) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(gg) "Equipment" means goods other than inventory, farm products or consumer goods.

(hh) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(1) Crops grown, growing or to be grown, including:

(I) Crops produced on trees, vines and bushes; and

(II) Aquatic goods produced in aquacultural operations;

(2) Livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(3) Supplies used or produced in a farming operation; or

(4) Products of crops or livestock in their unmanufactured states.

(ii) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(jj) "File number" means the number assigned to an initial financing statement pursuant to subsection 1 of NRS 104.9519.

(kk) "Filing office" means an office designated in NRS 104.9501 as the place to file a financing statement.

(ll) "Filing-office rule" means a rule adopted pursuant to NRS 104.9526.

(mm) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(nn) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying subsections 1 and 2 of NRS 104.9502. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(oo) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(pp) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas or other minerals before extraction. The term includes payment intangibles and software.

(qq) "Goods" means all things that are movable when a security interest attaches. The term includes fixtures; standing timber that is to be cut and removed under a conveyance or contract for sale; the unborn young of animals; crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes; and manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas or other minerals before extraction.

(rr) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(ss) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(tt) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of

business is transferred by delivery with any necessary endorsement or assignment. The term does not include investment property, letters of credit or writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(uu) "Inventory" means goods, other than farm products, which:

(1) Are leased by a person as lessor;

(2) Are held by a person for sale or lease or to be furnished under a contract of service;

(3) Are furnished by a person under a contract of service; or

(4) Consist of raw materials, work in process, or materials used or consumed in a business.

(vv) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(ww) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is ***formed or*** organized.

(xx) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(yy) "Lien creditor" means:

(1) A creditor that has acquired a lien on the property involved by attachment, levy or the like;

(2) An assignee for benefit of creditors from the time of assignment;

(3) A trustee in bankruptcy from the date of the filing of the petition; or

(4) A receiver in equity from the time of appointment.

(zz) "Manufactured home" means a structure, transportable in one or more sections, which in the traveling mode, is 8 feet or more in body width or 40 feet or more in body length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States Code.

(aaa) "Manufactured-home transaction" means a secured transaction:

(1) That creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(2) In which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(bbb) "Mortgage" means a consensual interest in real property, including fixtures, which is created by a mortgage, deed of trust, or similar transaction.

(ccc) "New debtor" means a person that becomes bound as debtor under subsection 4 of NRS 104.9203 by a security agreement previously entered into by another person.

(ddd) "New value" means money; money's worth in property, services or new credit; or release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(eee) "Noncash proceeds" means proceeds other than cash proceeds.

(fff) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, owes payment or other performance of the obligation, has provided property other than the collateral to secure payment or other performance of the obligation, or is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include an issuer or a nominated person under a letter of credit.

(ggg) "Original debtor" means, except as used in subsection 3 of NRS 104.9310, a person that, as debtor, entered into a security agreement to which a new debtor has become bound under subsection 4 of NRS 104.9203.

(hhh) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(iii) "Person related to," with respect to a natural person, means:

(1) The person's spouse;

(2) The person's brother, brother-in-law, sister or sister-in-law;

(3) The person's or the person's spouse's ancestor or lineal descendant; or

(4) Any other relative, by blood or marriage, of the person or the person's spouse who shares the same home with him or her.

(jjj) "Person related to," with respect to an organization, means:

(1) A person directly or indirectly controlling, controlled by or under common control with the organization;

(2) An officer or director of, or a person performing similar functions with respect to, the organization;

(3) An officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (1);

(4) The spouse of a natural person described in subparagraph (1), (2) or (3); or

(5) A person who is related by blood or marriage to a person described in subparagraph (1), (2), (3) or (4) and shares the same home with that person.

(kkk) "Proceeds" means, except as used in subsection 2 of NRS 104.9609, the following property:

(1) Whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;

(2) Whatever is collected on, or distributed on account of, collateral;

(3) Rights arising out of collateral;

(4) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; and

(5) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(lll) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(mmm) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to NRS 104.9620, 104.9621 and 104.9622.

(nnn) "Public-finance transaction" means a secured transaction in connection with which:

(1) Debt securities are issued;

(2) All or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(3) The debtor, the obligor, the secured party, the account debtor or other person obligated on collateral, the assignor or assignee of a secured obligation, or the assignor or assignee of a security interest is a state or a governmental unit of a state.

(ooo) ***"Public organic record" means a record that is available to the public for inspection and is:***

(1) A record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(2) An organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(3) A record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

(ppp) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not

within the secured party's control has relieved or may relieve the secured party from its obligation.

~~[(ppp)]~~ ***(qqq)*** "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

~~[(qqq)]~~ ***(rrr)*** "Registered organization" means an organization ***formed or*** organized solely under the law of a single state or the United States ~~[and as to which the state or the United States must maintain a public record showing the organization to have been organized.~~

~~(rrr)]~~ ***by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state.***

(sss) "Secondary obligor" means an obligor to the extent that:

(1) The obligor's obligation is secondary; or

(2) The obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor or property of either.

~~[(sss)]~~ ***(ttt)*** "Secured party" means:

(1) A person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(2) A person that holds an agricultural lien;

(3) A consignor;

(4) A person to which accounts, chattel paper, payment intangibles or promissory notes have been sold;

(5) A trustee, indenture trustee, agent, collateral agent or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(6) A person that holds a security interest arising under NRS 104.2401, 104.2505, subsection 3 of NRS 104.2711, NRS 104.4210, 104.5118 or subsection 5 of NRS 104A.2508.

~~[(ttt)]~~ ***(uuu)*** "Security agreement" means an agreement that creates or provides for a security interest.

~~[(uuu)]~~ ***(vvv)*** "Send," in connection with a record or notification, means:

(1) To deposit in the mail, deliver for transmission or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(2) To cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (1).

~~[(vvv)]~~ ***(www)*** "Software" means a computer program and any supporting information provided in connection with a transaction relating to the

program. The term does not include a computer program that is contained in goods unless the goods are a computer or computer peripheral.

~~[(www)]~~ ***(xxx)*** "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

~~[(xxx)]~~ ***(yyy)*** "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, document, general intangible, instrument or investment property.

~~[(yyy)]~~ ***(zzz)*** "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

~~[(zzz)]~~ ***(aaaa)*** "Termination statement" means a subsequent filing which:

(1) Identifies, by its file number, the initial financing statement to which it relates; and

(2) Indicates either that it is a termination statement or that the identified financing statement is no longer effective.

~~[(aaaa)]~~ ***(bbbb)*** "Transmitting utility" means a person primarily engaged in the business of:

(1) Operating a railroad, subway, street railway or trolley bus;

(2) Transmitting communications electrically, electromagnetically or by light;

(3) Transmitting goods by pipeline;

(4) Providing sewerage; or

(5) Transmitting or producing and transmitting electricity, steam, gas or water.

2. "Control" as provided in NRS 104.7106 and the following definitions in other Articles apply to this Article:

"Applicant." NRS 104.5102.

"Beneficiary." NRS 104.5102.

"Broker." NRS 104.8102.

"Certificated security." NRS 104.8102.

"Check." NRS 104.3104.

"Clearing corporation." NRS 104.8102.

"Contract for sale." NRS 104.2106.

"Customer." NRS 104.4104.

"Entitlement holder." NRS 104.8102.

"Financial asset." NRS 104.8102.

"Holder in due course." NRS 104.3302.

"Issuer" (with respect to a letter of credit or letter-of-credit right). NRS 104.5102.

"Issuer" (with respect to a security). NRS 104.8201.

"Issuer" (with respect to documents of title). NRS 104.7102.

"Lease." NRS 104A.2103.

"Lease agreement." NRS 104A.2103.

"Lease contract." NRS 104A.2103.
"Leasehold interest." NRS 104A.2103.
"Lessee." NRS 104A.2103.
"Lessee in ordinary course of business." NRS 104A.2103.
"Lessor." NRS 104A.2103.
"Lessor's residual interest." NRS 104A.2103.
"Letter of credit." NRS 104.5102.
"Merchant." NRS 104.2104.
"Negotiable instrument." NRS 104.3104.
"Nominated person." NRS 104.5102.
"Note." NRS 104.3104.
"Proceeds of a letter of credit." NRS 104.5114.
"Prove." NRS 104.3103.
"Sale." NRS 104.2106.
"Securities account." NRS 104.8501.
"Securities intermediary." NRS 104.8102.
"Security." NRS 104.8102.
"Security certificate." NRS 104.8102.
"Security entitlement." NRS 104.8102.
"Uncertificated security." NRS 104.8102.

3. Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 11. NRS 104.9105 is hereby amended to read as follows:

104.9105 ***1.*** A secured party has control of electronic chattel paper if ***a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.***

2. A system satisfies subsection 1 if the record or records comprising the chattel paper are created, stored and assigned in such a manner that:

~~[1.]~~ ***(a)*** A single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in ~~[subsections 4, 5 and 6,]~~ ***paragraphs (d), (e) and (f),*** unalterable;

~~[2.]~~ ***(b)*** The authoritative copy identifies the secured party as the assignee of the record or records;

~~[3.]~~ ***(c)*** The authoritative copy is communicated to and maintained by the secured party or its designated custodian;

~~[4.]~~ ***(d)*** Copies or ~~[revisions]~~ ***amendments*** that add or change an identified assignee of the authoritative copy can be made only with the ~~[participation]~~ ***consent*** of the secured party;

~~[5.]~~ ***(e)*** Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

~~[6.]~~ ***(f)*** Any ~~[revision]~~ ***amendment*** of the authoritative copy is readily identifiable as ~~[an]~~ authorized or unauthorized . ~~[revision.]~~

Sec. 12. NRS 104.9307 is hereby amended to read as follows:

104.9307 1. In this section, "place of business" means a place where a debtor conducts its affairs.

2. Except as otherwise provided in this section, the following rules determine a debtor's location:

(a) A natural person is located at his or her residence.

(b) Any other debtor having only one place of business is located at its place of business.

(c) Any other debtor having more than one place of business is located at its chief executive office.

3. Subsection 2 applies only if a debtor's residence, place of business or chief executive office, as applicable, is located in a jurisdiction whose law requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection 2 does not apply, the debtor is deemed to be located in the District of Columbia.

4. A person that ceases to exist, have a residence or have a place of business continues to be located in the jurisdiction specified by subsections 2 and 3.

5. A registered organization that is organized under the law of a state is located in that state.

6. Except as otherwise provided in subsection 9, a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located or deemed to be located:

(a) In the state that the law of the United States designates, if the law designates a state of location;

(b) In the state that the registered organization, branch or agency designates, if the law of the United States authorizes the registered organization, branch or agency to designate its state of location ~~[:]~~ ***, including by designating its main office, home office or other comparable office;*** or

(c) In the District of Columbia, if neither paragraph (a) nor paragraph (b) applies.

7. A registered organization continues to be located in the jurisdiction specified by subsection 5 or 6 notwithstanding:

(a) The suspension, revocation, forfeiture or lapse of the registered organization's status as such in its jurisdiction of organization; or

(b) The dissolution, winding up or cancellation of the existence of the registered organization.

8. The United States is deemed to be located in the District of Columbia.

9. A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or

agency is licensed, if all branches and agencies of the bank are licensed in only one state.

10. A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

11. This section applies only for purposes of this part.

Sec. 13. NRS 104.9311 is hereby amended to read as follows:

104.9311 1. Except as otherwise provided in subsection 4, the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(a) A statute, regulation or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt subsection 1 of NRS 104.9310;

(b) Chapter 105 of NRS, NRS 482.423 to 482.431, inclusive, 488.1793 to 488.1827, inclusive, and 489.501 to 489.581, inclusive; or

(c) A ~~[certificate of title]~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~[the]~~ ***a*** certificate ***of title*** as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

2. Compliance with the requirements of a statute, regulation or treaty described in subsection 1 for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection 4, NRS 104.9313 and subsections 4 and 5 of NRS 104.9316 for goods covered by a certificate of title, a security interest in property subject to a statute, regulation or treaty described in subsection 1 may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

3. Except as otherwise provided in subsection 4 and subsections 4 and 5 of NRS 104.9316, duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation or treaty described in subsection 1 are governed by the statute, regulation or treaty. In other respects, the security interest is subject to this article.

4. During any period in which collateral subject to a statute specified in paragraph (b) of subsection 1 is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 14. NRS 104.9316 is hereby amended to read as follows:

104.9316 1. A security interest perfected pursuant to the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 remains perfected until the earliest of:

(a) The time perfection would have ceased under the law of that jurisdiction;

(b) The expiration of 4 months after a change of the debtor's location to another jurisdiction; or

(c) The expiration of 1 year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

2. If a security interest described in subsection 1 becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

3. A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(a) The collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(b) Thereafter the collateral is brought into another jurisdiction; and

(c) Upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

4. Except as otherwise provided in subsection 5, a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this State remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

5. A security interest described in subsection 4 becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under subsection 2 of NRS 104.9311 or under NRS 104.9313 are not satisfied before the earlier of:

(a) The time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this State; or

(b) The expiration of 4 months after the goods had become so covered.

6. A security interest in deposit accounts, letter-of-credit rights or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(a) The time the security interest would have become unperfected under the law of that jurisdiction; or

(b) The expiration of 4 months after a change of the applicable jurisdiction to another jurisdiction.

7. If a security interest described in subsection 6 becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If

the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

8. The following rules apply to collateral to which a security interest attaches within 4 months after the debtor changes its location to another jurisdiction:

(a) A financing statement filed before the change pursuant to the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral if the debtor had not changed its location.

(b) If a security interest perfected by a financing statement that is effective under paragraph (a) becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 or the expiration of the 4-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

9. If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 and the new debtor is located in another jurisdiction, the following rules apply:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within 4 months after, the new debtor becomes bound under subsection 4 of NRS 104.9203, if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

(b) A security interest perfected by the financing statement which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in subsection 1 of NRS 104.9301 or subsection 3 of NRS 104.9305 or the expiration of the 4-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 15. NRS 104.9317 is hereby amended to read as follows:

104.9317 1. A security interest or agricultural lien is subordinate to the rights of:

(a) A person entitled to priority under NRS 104.9322; and

(b) A person that becomes a lien creditor before the earlier of the time:

(1) The security interest or agricultural lien is perfected; or

(2) One of the conditions specified in paragraph (c) of subsection 2 of NRS 104.9203 is met and a financing statement covering the collateral is filed.

2. Except as otherwise provided in subsection 5, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a ~~[security certificate]~~ ***certificated security*** takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

3. Except as otherwise provided in subsection 5, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

4. A licensee of a general intangible or a buyer, other than a secured party, of ~~[accounts, electronic chattel paper, electronic documents, general intangibles or investment property]~~ ***collateral*** other than ***tangible chattel paper, tangible documents, goods, instruments or*** a certificated security takes free of a security interest if the licensee gives value without knowledge of the security interest and before it is perfected.

5. Except as otherwise provided in NRS 104.9320 and 104.9321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 16. NRS 104.9326 is hereby amended to read as follows:

104.9326 1. Subject to subsection 2, a security interest ***that is*** created by a new debtor ~~[which is]~~ ***in collateral in which the new debtor has or acquires rights and is*** perfected ***solely*** by a filed financing statement that ~~[is effective solely under NRS 104.9508 in collateral in which a new debtor has or acquires rights]~~ ***would be ineffective to perfect the security interest but for the application of paragraph (a) of subsection 9 of NRS 104.9316 or NRS 104.9508*** is subordinate to a security interest in the same collateral which is perfected other than by ***such*** a filed financing statement **.** ~~[that is effective solely under that section.]~~

2. The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements ~~[that are effective solely under NRS 104.9508.]~~ ***described in subsection 1.*** However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 17. NRS 104.9406 is hereby amended to read as follows:

104.9406 1. Subject to subsections 2 to 8, inclusive, an account debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

2. Subject to subsection 8, notification is ineffective under subsection 1:

(a) If it does not reasonably identify the rights assigned;

(b) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(c) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(1) Only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;

(2) A portion has been assigned to another assignee; or

(3) The account debtor knows that the assignment to that assignee is limited.

3. Subject to subsection 8, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection 1.

4. Except as otherwise provided in subsection 5 and NRS 104.9407 and 104A.2303, and subject to subsection 8, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(a) Prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or

(b) Provides that the assignment or transfer, or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible or promissory note.

5. Subsection 4 does not apply to the sale of a payment intangible or promissory note [.] ***, other than a sale pursuant to a disposition under NRS 104.9610 or an acceptance of collateral under NRS 104.9620.***

6. Subject to subsections 7 and 8, a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental

body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute or regulation:

(a) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(b) Provides that the assignment or transfer, or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

7. Subject to subsection 8, an account debtor may not waive or vary its option under paragraph (c) of subsection 2.

8. This section is subject to law other than this article which establishes a different rule for an account debtor who is ~~[an individual]~~ ***a natural person*** and who incurred the obligation primarily for personal, family or household purposes.

9. This section does not apply to an assignment of a health-care-insurance receivable or to a transfer of a right to receive payments pursuant to NRS 42.030.

Sec. 18. NRS 104.9408 is hereby amended to read as follows:

104.9408 1. Except as otherwise provided in subsection 2, a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license or franchise, and prohibits, restricts or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable or general intangible, is ineffective to the extent that the term:

(a) Would impair the creation, attachment or perfection of a security interest; or

(b) Provides that the assignment or transfer, or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

2. Subsection 1 applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note ~~[.]~~ ***, other than a sale pursuant to a disposition under NRS 104.9610 or an acceptance of collateral under NRS 104.9620.***

3. A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance

receivable or general intangible, including a contract, permit, license or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute or regulation:

(a) Would impair the creation, attachment or perfection of a security interest; or

(b) Provides that the assignment or transfer, or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

4. To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection 3 would be effective under law other than this article but is ineffective under subsection 1 or 3, the creation, attachment or perfection of a security interest in the promissory note health-care-insurance receivable or general intangible:

(a) Is not enforceable against the person obligated on the promissory note or the account debtor;

(b) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(c) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party or accept payment or performance from the secured party;

(d) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable or general intangible;

(e) Does not entitle the secured party to use, assign, possess or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(f) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable or general intangible.

Sec. 18.5. NRS 104.9502 is hereby amended to read as follows:

104.9502 1. Subject to subsection 2, a financing statement is sufficient only if it:

(a) Provides the name of the debtor;

(b) Provides the name of the secured party or a representative of the secured party; and

(c) Indicates the collateral covered by the financing statement.

2. Except as otherwise provided in subsection 2 of NRS 104.9501, to be sufficient, a financing statement that covers as-extracted collateral or timber

to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:

(a) Indicate that it covers this type of collateral;

(b) Indicate that it is to be filed for record in the real property records;

(c) Provide a description of the real property to which the collateral is related sufficient to give constructive notice of the mortgage under the law of this State if the description were contained in a mortgage of the real property; and

(d) If the debtor does not have an interest of record in the real property, provide the name of a record owner.

3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(a) The record indicates the goods or accounts that it covers;

(b) The goods are or are to become fixtures related to the real property described in the mortgage or the collateral is related to the real property described in the mortgage and is as-extracted collateral or timber to be cut;

(c) The record satisfies the requirements for a financing statement in this section ~~[other than an indication]~~ ***but:***

(1) The record need not indicate that it is to be filed in the real property records; and

(2) The record sufficiently provides the name of a debtor who is a natural person if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is a natural person to whom paragraph (d) of subsection 1 of NRS 104.9503 applies; and

(d) The mortgage is recorded.

4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Sec. 19. NRS 104.9503 is hereby amended to read as follows:

104.9503 1. A financing statement sufficiently provides the name of the debtor:

(a) ~~[If]~~ ***Except as otherwise provided in paragraph (c), if*** the debtor is a registered organization ~~[,]~~ ***or the collateral is held in a trust that is a registered organization,*** only if the financing statement provides the name ~~[of the debtor indicated]~~ ***that is stated to be the registered organization's name*** on the public ***organic*** record ~~[of]~~ ***most recently filed with or issued or enacted by*** the ~~[debtor's]~~ ***registered organization's*** jurisdiction of organization which ~~[shows the debtor to have been organized;]~~ ***purports to state, amend or restate the registered organization's name;***

(b) ~~[If the debtor is a decedent's estate,]~~ ***Subject to subsection 6, if the collateral is being administered by the personal representative of a decedent,*** only if the financing statement provides ***, as the name of the debtor,*** the name of the decedent and ***, in a separate part of the financing***

statement, indicates that the ~~[debtor is an estate;]~~ ***collateral is being administered by a personal representative;***

(c) If the ~~[debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:~~

~~(1) Provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and~~

~~(2) Indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and]~~ ***collateral is held in a trust that is not a registered organization, only if the financing statement:***

(1) Provides, as the name of the debtor:

(I) If the organic record of the trust specifies a name for the trust, the name so specified; or

(II) If the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(2) In a separate part of the financing statement:

(I) If the name is provided in accordance with sub-subparagraph (I) of subparagraph (1), indicates that the collateral is held in a trust; or

(II) If the name is provided in accordance with sub-subparagraph (II) of subparagraph (1), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

(d) ***Subject to subsection 7, if the debtor is a natural person to whom this State*** ~~*[or any other state]*~~ ***has issued a driver's license*** ***that has not expired*** ***or*** ***to whom the agency of this State that issues driver's licenses has issued, in lieu of a driver's license, a personal*** ***identification card that has not expired*** ***,*** ~~*[or to whom the Federal Government has issued an identification card that has not expired,]*~~ ***only if the financing statement provides the name of the natural person which is indicated on the driver's license or*** ***personal*** ***identification card;***

(e) If the debtor is a natural person to whom paragraph (d) does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

(f) In other cases:

(1) If the debtor has a name, only if ~~[it]~~ ***the financing statement*** provides the ***organizational*** name of the debtor ***;*** ~~[as a natural person or an organization;]~~ and

(2) If the debtor does not have a name, only if ~~[it]~~ ***the financing statement*** provides the names of the partners, members, associates or other persons comprising the debtor ~~[.]~~ ***, in a manner that each name provided would be sufficient if the person named were the debtor.***

2. A financing statement that provides the name of the debtor in accordance with subsection 1 is not rendered ineffective by the absence of:

(a) A trade name or other name of the debtor; or

(b) Unless required under subparagraph (2) of paragraph ~~[(d)]~~ ***(f)*** of subsection 1, names of partners, members, associates or other persons comprising the debtor.

3. A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

4. Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

5. A financing statement may provide the name of more than one debtor and the name of more than one secured party.

6. The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under paragraph (b) of subsection 1.

7. If this State ~~*[, any other state or the Federal Government]*~~ ***has issued to a natural person more than one driver's license or , if none, more than one personal identification card , of a kind described in paragraph (d) of subsection 1,*** ~~*[or if a person has been issued both a driver's license and an identification card of the kind described in paragraph (d) of subsection 1,]*~~ ***the*** ~~***[one]***~~ ***driver's license or personal identification card, as applicable, that was issued most recently is the one to which paragraph (d) of subsection 1 refers.***

8. In this section, the "name of the settlor or testator" means:

(a) If the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the registered settlor's jurisdiction of organization which purports to state, amend or restate the settlor's name; or

(b) In other cases, the name of the settlor or testator indicated in the trust's organic record.

Sec. 20. NRS 104.9507 is hereby amended to read as follows:

104.9507 1. A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

2. Except as otherwise provided in subsection 3 and NRS 104.9508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under NRS 104.9506.

3. If ~~[a debtor so changes its]~~ ***the*** name that a filed financing statement ***provides for a debtor*** becomes ***insufficient as the name of the debtor under subsection 1 of NRS 104.9503 so that the financing statement becomes*** seriously misleading under NRS 104.9506:

(a) The financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the ~~[~~change;~~]~~ ***filed financing statement becomes seriously misleading;*** and

(b) The financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the ~~[~~change,~~]~~ ***filed financing statement becomes seriously misleading,*** unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within 4 months after ~~[~~the change.~~]~~ ***the financing statement became seriously misleading.***

Sec. 21. NRS 104.9515 is hereby amended to read as follows:

104.9515 1. Except as otherwise provided in subsections 2, 5, 6 and 7, a filed financing statement is effective for a period of 5 years after the date of filing.

2. Except as otherwise provided in subsections 5, 6 and 7, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

3. The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection 4. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

4. A continuation statement may be filed only within 6 months before the expiration of the 5-year period specified in subsection 1 or the 30-year period specified in subsection 2, whichever is applicable.

5. Except as otherwise provided in NRS 104.9510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of 5 years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the 5-year period, the financing statement lapses in the same manner as provided in subsection 3, unless, before the lapse, another continuation statement is filed pursuant to subsection 4. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

6. If a debtor is a transmitting utility and a filed ***initial*** financing statement so indicates, the financing statement is effective until a termination statement is filed.

7. A real property mortgage that is effective as a fixture filing under subsection 3 of NRS 104.9502 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Sec. 22. NRS 104.9516 is hereby amended to read as follows:

104.9516 1. Except as otherwise provided in subsection 2, communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

2. Filing does not occur with respect to a record that a filing office refuses to accept because:

(a) The record is not communicated by a method or medium of communication authorized by the filing office;

(b) An amount equal to or greater than the applicable filing fee is not tendered;

(c) The filing office is unable to index the record because:

(1) In the case of an initial financing statement, the record does not provide a name for the debtor;

(2) In the case of an amendment or ~~[correction]~~ ***information*** statement ~~*[of claim,]*~~ the record:

(I) Does not identify the initial financing statement as required by NRS 104.9512 or 104.9518, as applicable; or

(II) Identifies an initial financing statement whose effectiveness has lapsed under NRS 104.9515;

(3) In the case of an initial financing statement that provides the name of a debtor identified as a natural person or an amendment that provides a name of a debtor identified as a natural person which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's ~~[last name;]~~ ***surname;*** or

(4) In the case of a record filed or recorded in the filing office described in paragraph (a) of subsection 1 of NRS 104.9501, the record does not provide a sufficient description of the real property to which it relates;

(d) In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(e) In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(1) Provide a mailing address for the debtor; ***or***

(2) Indicate whether the ***name provided as the name of the*** debtor is ***the name of*** a natural person or an organization; ~~[or~~

~~(3) If the financing statement indicates that the debtor is an organization, provide:~~

~~(I) A type of organization for the debtor;~~

~~(II) A jurisdiction of organization for the debtor; or~~

~~(III) An organizational identification number for the debtor or indicate that the debtor has none;]~~

(f) In the case of an assignment reflected in an initial financing statement under subsection 1 of NRS 104.9514 or an amendment filed under

subsection 2 of that section, the record does not provide a name and mailing address for the assignee; ~~[or]~~

(g) In the case of a continuation statement, the record is not filed within the 6-month period prescribed by subsection 4 of NRS 104.9515 ~~[.]~~ ***; or***

(h) The record lists a public official of a governmental unit as a debtor and the public official has not authorized the filing of the information in an authenticated record as required pursuant to NRS 104.9509.

3. For purposes of subsection 2:

(a) A record does not provide information if the filing office is unable to read or decipher the information; and

(b) A record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by NRS 104.9512, 104.9514 or 104.9518, is an initial financing statement.

4. A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection 2, is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 23. NRS 104.9518 is hereby amended to read as follows:

104.9518 1. A person may file in the filing office ~~[a]~~ ~~[correction]~~ ***an information*** statement ~~*[of claim]*~~ with respect to a record indexed there under his or her name if the person believes that the record is inaccurate or was wrongfully filed.

2. ~~[A]~~ ~~[correction]~~ ***An information*** statement ~~*[of claim]*~~ ***under subsection 1*** must:

(a) Identify the record to which it relates by:

(1) The file number assigned to the initial financing statement to which the record relates; and

(2) If the ~~[correction]~~ ***information*** statement ~~*[of claim]*~~ relates to a record filed or recorded in a filing office described in paragraph (a) of subsection 1 of NRS 104.9501, the date that the initial financing statement was filed or recorded and the information specified in subsection 2 of NRS 104.9502;

(b) Indicate that it is ~~[a]~~ ~~[correction]~~ ***an information*** statement ***;*** ~~*[of claim;]*~~ and

(c) Provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for his or her belief that the record was wrongfully filed.

3. ***A person may file in the filing office*** ~~*[a]*~~ ***an information statement*** ~~*[of claim]*~~ ***with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under subsection 3 of NRS 104.9509.***

4. ~~*[A]*~~ ***An information statement*** ~~*[of claim]*~~ ***under subsection 3 must:***

(a) Identify the record to which it relates by:

(1) The file number assigned to the initial financing statement to which the record relates; and

(2) If the information statement ~~[of claim]~~ relates to a record filed or recorded in a filing office described in paragraph (a) of subsection 1 of NRS 104.9501, the date that the initial financing statement was filed or recorded and the information specified in subsection 2 of NRS 104.9502;

(b) Indicate that it is ~~[a]~~ an information statement ; ~~[of claim;]~~ and

(c) Provide the basis for the person's belief that the person that filed the record was not entitled to do so under subsection 3 of NRS 104.9509.

5. The filing of ~~[a]~~ ~~[correction]~~ ***an information*** statement ~~*[of claim]*~~ does not affect the effectiveness of an initial financing statement or other filed record.

Sec. 24. NRS 104.9607 is hereby amended to read as follows:

104.9607 1. If so agreed, and in any event after default, a secured party:

(a) May notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(b) May take any proceeds to which the secured party is entitled under NRS 104.9315;

(c) May enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(d) If it holds a security interest in a deposit account perfected by control under paragraph (a) of subsection 1 of NRS 104.9104, may apply the balance of the deposit account to the obligation secured by the deposit account; and

(e) If it holds a security interest in a deposit account perfected by control under paragraph (b) or (c) of subsection 1 of NRS 104.9104, may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

2. If necessary to enable a secured party to exercise under paragraph (c) of subsection 1 the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which the mortgage is recorded:

(a) A copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(b) The secured party's sworn affidavit in recordable form stating that:

(1) A default has occurred ~~[;]~~ ***with respect to the obligation secured by the mortgage;*** and

(2) The secured party is entitled to enforce the mortgage nonjudicially.

3. A secured party shall proceed in a commercially reasonable manner if the secured party:

(a) Undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(b) Is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

4. A secured party may deduct from the collections made pursuant to subsection 3 reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

5. This section does not determine whether an account debtor, bank or other person obligated on collateral owes a duty to a secured party.

Sec. 25. This act becomes effective on July 1, 2013.

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 clarifies that in addition to a driver's license, a personal identification card issued by the Department of Motor Vehicles will also be accepted to verify the name of the debtor on the financial statement.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 161.

Bill read second time and ordered to third reading.

Assembly Bill No. 244.

Bill read second time and ordered to third reading.

Assembly Bill No. 269.

Bill read second time and ordered to third reading.

Assembly Bill No. 271.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 557.

"SUMMARY—Regulates private transfer fee obligations that affect real property. (BDR 10-628)"

"AN ACT relating to real property; providing for the regulation of private transfer fee obligations affecting real property; providing that certain such obligations are void and unenforceable; revising the disclosures that a seller of real property must make to a buyer to include certain information concerning such obligations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill regulates the imposition of private transfer fee obligations upon the transfer of an interest in real property in this State. **Section 6** of this bill defines a "private transfer fee obligation" to mean an obligation arising under a declaration or covenant recorded against the title to real property, or under any other contractual agreement or promise, whether or not recorded, that

requires or purports to require the payment of a private transfer fee to the declarant or other person specified in the declaration, covenant or agreement, or to his or her successors or assigns, upon a subsequent transfer of an interest in the real property. **Section 9** of this bill sets forth the finding and declaration of the Legislature that a private transfer fee obligation violates the public policy of this State by impairing the marketability and transferability of real property and by constituting an unreasonable restraint on the alienation of real property. **Section 10** of this bill provides that certain private transfer fee obligations that are created or recorded in this State on or after the date of passage and approval of this bill are void and unenforceable. **Sections 11 and 12** of this bill require the payee under a private transfer fee obligation that was created before the date of passage and approval of this bill to record, on or before ~~[December 31, 2011,]~~ **July 31, 2012,** in the office of the county recorder of the county in which the real property that is subject to the private transfer fee obligation is located, a notice which includes certain specified information and to respond timely to a request for a written statement of the amount of the transfer fee due upon the sale of the real property, and provides that the private transfer fee obligation becomes void and unenforceable upon failure to comply with either requirement. In addition, **section 13** of this bill imposes civil liability upon a person who fails to comply with either of these requirements or who creates or records a private transfer fee obligation in the person's favor on or after the date of passage and approval of this bill. **Section 14** of this bill revises the disclosures that a seller of real property must make to a buyer by requiring a seller of real property that is subject to a private transfer fee obligation to furnish to the buyer a written statement which discloses the existence of the private transfer fee obligation, includes a description of the private transfer fee obligation and sets forth a notice which includes information concerning applicable state laws and the effect that such an obligation may have on the value of the property.

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 13, inclusive, of this act, 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" includes, without limitation, a grantee or other transferee of an interest in real property.***

Sec. 4. ***"Payee" means the natural person to whom or the entity to which a private transfer fee is to be paid and the successors or assigns of the natural person or entity.***

Sec. 5. ***1. "Private transfer fee" means a fee or charge required by a private transfer fee obligation and payable upon the transfer of an interest in real property, or payable for the right to make or accept such a transfer,***

regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the interest in real property or the purchase price or other consideration paid for the transfer of the interest in real property.

2. The term does not include any:

(a) Consideration payable by the buyer to the seller for the interest in real property being transferred, including any subsequent additional consideration payable by the buyer based upon any subsequent appreciation, development or sale of the property if the additional consideration is payable on a one-time basis only and the obligation to make the payment does not bind successors in title to the property;

(b) Commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the seller or buyer, including any subsequent additional commission payable by the seller or buyer based upon any subsequent appreciation, development or sale of the property;

(c) Interest, charge, fee or other amount payable by a borrower to a lender pursuant to a loan secured by a mortgage on real property, including, without limitation, any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property, any amount paid to the lender pursuant to an agreement which gives the lender the right to share in any subsequent appreciation in the value of the property, and any other consideration payable to the lender in connection with the loan;

(d) Rent, reimbursement, charge, fee or other amount payable by a lessee to a lessor under a lease, including, without limitation, any fee payable to the lessor for consenting to any assignment, subletting, encumbrance or transfer of the lease;

(e) Consideration payable to the holder of an option to purchase an interest in real property or to the holder of a right of first refusal to purchase an interest in real property for waiving, releasing or not exercising the option or right upon the transfer of the real property to another person;

(f) Tax, fee, charge, assessment, fine or other amount payable to or imposed by a governmental entity; ~~*[or]*~~

(g) Fee, charge, assessment, fine or other amount payable to an association of property owners or any other form of organization of property owners, including, without limitation, a unit-owners' association or master association of a common-interest community, a unit-owners' association of a condominium hotel or an association of owners of a time-share plan, pursuant to a declaration, covenant or specific statute applicable to the association or organization ~~*[.]*~~ ***; or***

(h) Fee or charge payable to the master developer of a planned community by the first purchaser of each lot in the planned community in the event that the first purchaser fails to construct and obtain a municipal

certificate of occupancy for a residence on the lot and retain ownership of the residence for 1 year before conveying the residence, provided that the obligation of the first purchaser of the lot to pay the fee or charge is on a one-time basis only and does not bind subsequent purchasers of the lot.

Sec. 6. ***"Private transfer fee obligation" means an obligation arising under a declaration or covenant recorded against the title to real property, or under any other contractual agreement or promise, whether or not recorded, that requires or purports to require the payment of a private transfer fee to the declarant or other person specified in the declaration, covenant or agreement, or to his or her successors or assigns, upon a subsequent transfer of an interest in the real property.***

Sec. 7. ***"Seller" includes, without limitation, a grantor or other transferor of an interest in real property.***

Sec. 8. ***"Transfer" means the sale, gift, conveyance, assignment, inheritance or other transfer of an interest in real property.***

Sec. 9. ***The Legislature finds and declares that:***

1. The public policy of this State favors the marketability of real property and the transferability of interests in real property free of defects in title or unreasonable restraints on the alienation of real property; and

2. A private transfer fee obligation violates the public policy of this State by impairing the marketability and transferability of real property and by constituting an unreasonable restraint on the alienation of real property regardless of the duration or amount of the private transfer fee or the method by which the private transfer fee obligation is created or imposed.

Sec. 10. ***1. Except as otherwise provided in section 11 of this act:***

(a) A person shall not, on or after the effective date of this act, create or record a private transfer fee obligation in this State; and

(b) A private transfer fee obligation that is created or recorded in this State on or after the effective date of this act is void and unenforceable.

2. The provisions of subsection 1 do not validate or make enforceable any private transfer fee obligation that was created or recorded in this State before the effective date of this act.

Sec. 11. ***1. The payee under a private transfer fee obligation that was created before the effective date of this act shall, on or before*** ~~*[December 31, 2011,]*~~ ***July 31, 2012, record in the office of the county recorder of the county in which the real property that is subject to the private transfer fee obligation is located a notice which includes:***

(a) The title "Notice of Private Transfer Fee Obligation" in not less than 14-point boldface type;

(b) The legal description of the real property;

(c) The amount of the private transfer fee or the method by which the private transfer fee must be calculated;

(d) If the real property is residential property, the amount of the private transfer fee that would be imposed on the sale of a home for $100,000, the sale of a home for $250,000 and the sale of a home for $500,000;

(e) The date or circumstances under which the private transfer fee obligation expires, if any;

(f) The purpose for which the money received from the payment of the private transfer fee will be used;

(g) The name, address and telephone number of the payee; and

(h) If the payee is:

(1) A natural person, the notarized signature of the payee; or

(2) An entity, the notarized signature of an authorized officer or employee of the entity.

2. Upon any change in the information set forth in the notice described in subsection 1, the payee may record an amendment to the notice.

3. If the payee fails to comply with the requirements of subsection 1:

(a) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation; and

(b) The payee is subject to the liability described in section 13 of this act.

4. Any person with an interest in the real property that is subject to the private transfer fee obligation may record in the office of the county recorder of the county in which the real property is located an affidavit which:

(a) States that the affiant has actual knowledge of, and is competent to testify to, the facts set forth in the affidavit;

(b) Sets forth the legal description of the real property that is subject to the private transfer fee obligation;

(c) Sets forth the name of the owner of the real property as recorded in the office of the county recorder;

(d) States that the private transfer fee obligation was created before the effective date of this act and specifies the date on which the private transfer fee obligation was created;

(e) States that the payee under the private transfer fee obligation failed on or before ~~[December 31, 2011,]~~ July 31, 2012, to record in the office of the county recorder of the county in which the real property that is subject to the private transfer fee obligation is located a notice which complies with the requirements of subsection 1; and

(f) Is signed by the affiant under penalty of perjury.

5. When properly recorded, the affidavit described in subsection 4 constitutes prima facie evidence that:

(a) The real property described in the affidavit was subject to a private transfer fee obligation that was created before the effective date of this act;

(b) The payee under the private transfer fee obligation failed on or before ~~[December 31, 2011,]~~ July 31, 2012, to record in the office of the

county recorder of the county in which the real property that was subject to the private transfer fee obligation is located a notice which complies with the requirements of subsection 1; and

(c) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation.

Sec. 12. *1. If a written request for a written statement of the amount of the transfer fee due upon the sale of real property is sent by certified mail, return receipt requested, to the payee under a private transfer fee obligation that was created before the effective date of this act at the address appearing in the recorded notice described in section 11 of this act, the payee shall provide such a written statement to the person who requested the written statement not later than 30 days after the date of mailing.*

2. If the payee fails to comply with the requirements of subsection 1:

(a) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation; and

(b) The payee is subject to the liability described in section 13 of this act.

3. The person who requested the written statement may record in the office of the county recorder of the county in which the real property is located an affidavit which:

(a) States that the affiant has actual knowledge of, and is competent to testify to, the facts set forth in the affidavit;

(b) Sets forth the legal description of the real property that is subject to the private transfer fee obligation;

(c) Sets forth the name of the owner of the real property as recorded in the office of the county recorder;

(d) Expressly refers to the recorded notice described in section 11 of this act by:

(1) The date on which the notice was recorded in the office of the county recorder; and

(2) The book, page and document number, as applicable, of the recorded notice;

(e) States that a written request for a written statement of the amount of the transfer fee due upon the sale of the real property was sent by certified mail, return receipt requested, to the payee at the address appearing in the recorded notice described in section 11 of this act, and that the payee failed to provide such a written statement to the person who requested the written statement within 30 days after the date of mailing; and

(f) Is signed by the affiant under penalty of perjury.

4. When properly recorded, the affidavit described in subsection 3 constitutes prima facie evidence that:

(a) A written request for a written statement of the amount of the transfer fee due upon the sale of the real property was sent by certified mail, return receipt requested, to the payee at the address appearing in the recorded notice described in section 11 of this act;

(b) The payee failed to provide such a written statement to the person who requested the written statement within 30 days after the date of mailing; and

(c) The private transfer fee obligation is void and unenforceable and any interest in the real property that is subject to the private transfer fee obligation may thereafter be conveyed free and clear of the private transfer fee obligation.

Sec. 13. ***1. Any person who creates or records a private transfer fee obligation in the person's favor on or after the effective date of this act or who fails to comply with a requirement imposed by subsection 1 of section 11 of this act or subsection 1 of section 12 of this act is liable for all:***

(a) Damages resulting from the enforcement of the private transfer fee obligation upon the transfer of an interest in the real property, including, without limitation, the amount of any private transfer fee paid by a party to the transfer; and

(b) Attorney's fees, expenses and costs incurred by a party to the transfer or mortgagee of the real property to recover any private transfer fee paid or in connection with an action to quiet title.

2. A principal is liable pursuant to this section for the acts or omissions of an authorized agent of the principal.

Sec. 14. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A seller of real property that is subject to a private transfer fee obligation shall furnish to the buyer a written statement which discloses the existence of the private transfer fee obligation, includes a description of the private transfer fee obligation and sets forth a notice in substantially the following form:

> ***A private transfer fee obligation has been created with respect to this property. The private transfer fee obligation may lower the value of this property. The laws of this State prohibit the enforcement of certain private transfer fee obligations that are created or recorded on or after the effective date of this act (section 10 of this act) and impose certain notice requirements with respect to private transfer fee obligations that were created before the effective date of this act (section 11 of this act).***

2. As used in this section, "private transfer fee obligation" has the meaning ascribed to it in section 6 of this act.

Sec. 15. 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.

The amendment revises the definition of a "private transfer fee" by excluding from that definition a fee that is paid by the first purchaser of a lot to the master developer of a planned community if the purchaser fails to construct a residence and retain ownership for at least one year. The intent is to allow the private transfer fee in such circumstances in order to discourage "flipping" of lots or speculative purchases.

The amendment also changes the date by which a payee under a private transfer fee obligation must record the obligation with the county recorder. The date is changed from December 31, 2011, to July 31, 2012.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 284.

Bill read second time and ordered to third reading.

Assembly Bill No. 321.

Bill read second time and ordered to third reading.

Assembly Bill No. 408.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 568.

Bill read third time.

Remarks by Senator Horsford.

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

I will be reading the entire floor statement. Assembly Bill No. 568 appropriates $1.370 billion in the first year and $1.399 billion in the second year of the 2011-13 biennium from the State General Fund to the Distributive School Account (DSA). In addition, there are $240.1 million and $246.0 million of other revenues authorized to be received and expended for the state support of public education for the next two years. These other revenues include an annual tax on slot machines, sales tax collected on out-of-state sales, interest earned on the Permanent School Fund, revenue from mineral leases on federal land and room tax revenues from the legislatively-approved 2009 Initiative Petition 1.

The statewide average basic support per pupil increases over the upcoming biennium from the amount of $5,192 in the current year (revised from the FY 2011 legislatively-approved amount of $5,395 for the budget reductions approved by the Twenty-sixth Special Session) to $5,542 in FY 2012, and $5,655 in FY 2013. Enrollment is projected to decline by 0.14 percent in the first year and grow by 0.36 percent in the second year of the biennium.

State funding for special education continues to be allocated on the basis of special education units. Total funding for the units amounts to $121.3 million for 3,049 units of $39,768 each year of the 2011-13 biennium. As in the past, 40 of those units will be reserved for the State Board of Education to assign to districts that have unexpected needs.

To fund adult high school diploma programs, including those in prison facilities, $17.4 million and $18.2 million are budgeted in the first and second years of the biennium, respectively, for the support of courses approved by the Department of Education as meeting the course of study for an adult standard high school diploma as approved by the State Board.

The bill includes funding for the Early Childhood Education program of $3.3 million for each year of the upcoming biennium for competitive grants to school districts and community-based organizations for early childhood education programs.

For continued support of the Class-Size Reduction (CSR) program, this bill allocates $144 million in FY 2012 and $147.5 million in FY 2013 to pay for the salaries and benefits of at least 2,127 teachers hired to reduce pupil-teacher ratios in the first year and 2,144 teachers in the second year of the biennium. The bill continues the CSR program in the DSA, and maintains the separate expenditure category to highlight the program. Funds will be allocated based upon the number of teachers needed in each school district to reach the pupil-teacher ratios of 16 to 1 in first and second grades and 19 to 1 in third grade, the same ratios as in the current biennium.

The bill continues the flexibility for certain school districts to carry out alternative programs for reducing the ratio of pupils per teacher or to implement remedial programs that have been found to be effective in improving pupil achievement. To use the funds in this manner, school districts are required to receive approval of their written plan from the Superintendent of Public Instruction, evaluate the effectiveness of their program and ensure that the combined ratio of pupils per teacher in the aggregate of grades K through 3 does not exceed the combined ratio in those grades in the 2004-05 school year.

This bill appropriates $8.0 million and $7.6 million for the first and second years, respectively, for the Other State Education Programs Account. Through this account, State General Fund support is provided for Educational Technology, Peer Mediation, Career and Technical Education programs, Local Education Agency Library Books, Public Broadcasting, the National Board Certification program for teachers and counselors, and other miscellaneous programs.

This bill continues the Account for Programs for Innovation and the Prevention of Remediation with appropriations of $24.8 million in FY 2012 and $25.3 million in FY 2013 to continue the Full-Day Kindergarten program for at-risk schools in Nevada. The bill further appropriates $7.7 million each year of the 2011-13 biennium for Regional Professional Development programs to train teachers and administrators. The Regional Professional Development program was transferred, with no change in purpose, from a line item in the Distributive School Account to the Remediation Trust Fund.

The bill continues the Grant Fund for Incentives for Licensed Educational Personnel with appropriations of $13.4 million in FY 2012 to fund the cost of retirement credits and teacher incentives earned in FY 2011, and $15.9 million in FY 2013 to fund the cost of retirement credits and teacher incentives earned in FY 2012.

The bill also temporarily redirects funding from the State Supplemental School Support Fund to the Distributive School Account for the 2011-13 bienniums. This concludes the floor statement.

I said at the beginning of this Session that I will not accept the Governor's deep cuts to K-12 education. I did not sign a pledge, I took an oath. Today, I keep my promise.

This budget does not position our children for success. It pits students against each other for attention in overcrowded classrooms, taught by underpaid teachers, in schools that are falling apart. The Governor's proposal says to these kids, "deal with it." That is not optimism; that is cynicism.

Let us be clear: before this Session student achievement was low in Nevada. We need to reform our system, which is obvious. But reform is only one side of the coin.

You cannot reform a system that is critically underfunded by cutting more. We can ask teachers to do more with less, but we have been doing that for years. And for years we have watched our system deteriorate. When are we going to stop? Where does this end?

Students have become activists because we are not doing our jobs. My children's school is being leafleted by parents who are concerned about their children and their opportunity to succeed. And it is not just my children's school. It is across Clark County and throughout Nevada. I have never seen that before, and I have never heard such an outcry from the public, it is unheard of in this State. We are at the breaking point. If we do not invest in our schools now, we will condemn our children to failure. Education is free to all, but it has a price, because we cannot cut our way out of crumbling classrooms. We cannot treat teachers like second class citizens, cut their pay, and expect the talent pool to grow. We cannot scold students for bad grades when they do not have textbooks to take home to study. We cannot reform our way out of a classroom with 45 students. We cannot end social promotion by closing libraries and ending after-school programs.

There is a lot of talk about tightening our belts. You now what, our children do not have belts to tighten. Schools are cutting back on pencils. That is where we are as a State; we are cutting back on pencils. That may seem insignificant to some, but if that is your opinion, I would like to introduce you to some families in my district.

We cannot afford to short-change our kids. We cannot be a state known for shortchanging our schools and expending our prisons. If we do not restore funding, we will continue a downward spiral for student achievement and deny our children success.

What we can do is step up to the plate and save our schools. We ask our students to be responsible in the classroom, because we promise them they can succeed if they work hard. The K-12 budget we send to the Governor today is how we live up to our end of the bargain, and responsibly fund our schools.

I am not doing this to oppose the Governor, or to score political points. I am doing this for students. Students who need someone to stand up for them, students like Amberly, who attends Robert O. Gibson Middle School, in my district.

She wrote me a letter saying that the outlets in her classrooms spark, that there are electrical wires hanging from the ceiling. She told me about Ms. Kipp's class, where the ceiling is caving in right above her desk and she is afraid the ceiling is going to fall on her. By the way, she said Ms. Kipp is a great teacher. She said the plumbing in her school is broken and the whole school smells like sewage.

Why should we ask our children, the next generation of this State, to sacrifice more? They have been sacrificing their whole lives. To take more from them is beyond unfair. They want a bright future, but it is not just up to them to work hard. Here, in this Chamber, right now, 21 Legislators are deciding to tip the scales for or against them.

All parents have hopes and goals for their children. Like any parent, I want only the best for mine. Kids grow through their schooling. They spend a large portion of their young lives in the classroom. We will reap what we sow with this budget and a budget reflects our priorities, whether it is a family budget, a business, or a state or local government.

If we underfund our schools, our students will under perform, it is a simple as that, and that is why we should send restored K-12 funding to the Governor. It is the least we can do.

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

Senate in recess at 4:14 p.m.

SENATE IN SESSION

At 4:19 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senators Roberson, Schneider and Horsford.

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

SENATOR ROBERSON:

Thank you, Mr. President. I am responding today because I do not react well to lecturing. That is what I took the Senate Majority Leader's statement to be. It was a lecture to those of us who have chosen to support the Governor's budget. To insinuate that those in the minority party do not care about children and do not care about education is rich coming from the majority party who, from my perspective is for the status quo in education in this State. They are opposed to any real reform. They have proposed lots of fake reform, but no real reform to education this Session.

With the add backs to the budget, not one teacher needs to be laid off. Not one classroom needs to increase in size as long as the unions make reasonable concessions. Teachers in this State are the twenty-third highest paid teachers in the country. They are only being asked to

make the same sacrifice that every other State employee is making. They are not even being asked to make as large of a sacrifice because they are being asked to contribute just a portion, a quarter of their (Public Employees' Retirement System (PERS) contribution, much less than what other State employees have to contribute. No teacher has to lose their job under this budget. That is up to the unions. Some of us tried to enact real collective bargaining reforms. We were thwarted at every attempt by the majority party because the majority party is beholden to public sector unions. That is the bottom line. That is what keeping education in this State down.

I am not going to vote to tax people in Nevada, yet again, to put more money into a system that we all know is broken. We need to fix this education system. All of us are willing to do that. To wait four months until five days ago to propose $1.5 billion in new taxes and to expect us to say, "Yes, sir, let us vote for more taxes." I am sorry, we are not going to go along with that. That does not mean we are anti-education. It does not mean we are anti-teacher. It does not mean we are anti-children.

SENATOR SCHNEIDER:

Thank you, Mr. President. The "rookie" Senator from Green Valley signed a tax pledge. He would not vote for education, he would not vote for taxes, he would not vote for anything to fund schools before he was elected.

I do not like this budget. I have put in 12 years to fund education at the national average. We are dead last. We are at the bottom. On the *Today Show* this morning, they had a story about autism. They said it is twice as high as being reported nationwide. How do you find the students who are autistic? You have to spend the money. You have to find them, rehabilitate them, so they may become productive citizens. We did not put enough money into the budget to do that. There are add backs, but there is not enough money. The Senator from District No. 5 stated that teachers were paid twenty-third in the nation, but our overall funding is last. The Clark County School District was described as insatiable in their hunt for teachers during the last two decades. They had to hire over 2,000 teachers every year to keep pace. They were competing nationally. They could not get the teachers nationally. They had to go to Mexico to hire teachers and to the Philippines to hire teachers because we did not have the teachers in this country who would come to Las Vegas. We had to go to third-world countries to hire teachers. We had to sweeten the pot to get them. The teachers were saying "no" to Las Vegas and "no" to the State of Nevada.

Let us look at this realistically. To fund our children at just the national average, to be mediocre, $1.7 billion more needs to go in the budget to do that. The Majority Leader had a hearing on Senate Bill No. 2 this Session to fund at the average. I said you can use the bill to set a goal to get there. You can use the bill for any type of reform. You can use the bill for anything, but let us set a goal to get us out of this hole.

Last week, the Governor announced that an outdoor supply store is coming to Reno. That is a big economic development boost for Reno. It hires about 400 employees. That shows that we are doing good. But, I would like to tell the Governor that IKEA will not come to Las Vegas because of the education level of the people. IKEA would have employed more people than the outdoor store in Reno.

It is a shame and it is a crime, what we do. In the two decades I have been here, we have underfunded and cut our kids short. Look at the statistics. We do not graduate at the rate we should. It has to do with funding. It does not have to do with teacher reform. I am insulted that the Senator from District No. 5 claims that my party is beholden to the teachers and to the unions. I am personally insulted by that.

We are still kicking that can down the road. We are not making real reform. We are not doing what is right for our students. Our businesses have indicated we should fund education better. Our businesses in this State, Wal-Mart, Kmart, Target, Nordstrom's, Albertson's, Smith's Food King do not pay income tax. They do not pay corporate tax. They do not pay inventory tax. They do not pay warehousing tax. Thanks to the work of the last two decades of the Commerce and Labor Committee, they pay a very low workers' compensation rate in Nevada. All of the states surrounding us are paying these taxes. Their businesses are not fleeing. They are funding education better.

Mr. President, I apologize for getting tough, but when I am accused of being beholden to someone and that is why the funding is what it is, I am personally insulted. I stand here to say we did not fund it enough.

SENATOR ROBERSON:
Thank you, Mr. President. I will not personalize this because I have a great deal of personal affection for my friend and colleague, the veteran Senator from Clark District No. 11.

My colleague did not address my questions about real reform. It is always the easy way out to say, "Let us just take more of the people's money. Let us just raise taxes again. Let us not make the tough choices to fix the system." We can throw as much money at this we want, but if the system is broken, it is not going to get better. We have done that time and time again. We need real reform. I stand by my statement. I am not trying to be offensive. I am just trying to state the facts. The majority party is beholden to public sector unions. The proof is in the pudding.

SENATOR HORSFORD:
Point of order Mr. President.
That is not appropriate in this body. It is not.

MR. PRESIDENT:
My judgment was that it was appropriate.

SENATOR HORSFORD:
I would like to make the record clear since some members who are in this body were not here in 2009. This body approved unanimously Senate Bill No. 330 of the 75th Session, which was a major reform bill to education around the teacher evaluation and accountability provisions. That bill was passed unanimously in a bipartisan manner with major reforms that were offered by both sides over the objections of the education establishment whether they were the school districts, teacher organizations, or other groups.

My colleague from Clark District No. 5 wants to refer to reform. This Legislature is all about reform; reform of our budget, reform to keep policies including education, reforms to policies around public employee issues, and reform of our revenue code, which has not substantially changed since the 1950s. They go together. It is a package. It is part of what the Speaker, I, and others did present the other day. My question to my colleague from Clark District No. 5 is, "Is this about an ideological view? Or is this about reacting to the policy that is now before this body?" We have a bill before us that restores funding. There are bills in the Senate Education Committee. There was a hearing yesterday on two major reform bills in education about teacher accountability and changing the post probationary status for teachers if they are not showing improvement in their classrooms with their students. To suggest there is no reform, I would ask my colleague, "What is he asking for?" You have to evaluate the policies that are before us. In this Session, there are bills on reform in the areas I just discussed, on education, on government in the budget, on public employee issues that have passed both Houses and are still in this process. My colleague from Clark District No. 12 has a measure that we supported in this Body dealing with public employee issues. That discussion can continue. To suggest that this is not occurring is false and it is fiction logic. Members need to be informed and not just throw out ideological views that are not substantiated. The reason I stood to object is because I have never in all of my years whether it be in the Assembly or the Senate had a member question the integrity of the members of this body; Ever.

It is important that while we disagree, that we do it respectfully. You may not like my remarks. You may not like my positions, but I will always be respectful of other members. I have tried to listen, engage, and have a discussion and to bring the issue to this Floor in a Committee of the Whole so that we could deliberate and debate the issues that members are questioning. We have started this Session where we will end it, prioritizing those areas that are most important. That is what this bill does today.

MR. PRESIDENT:
I appreciate your comments, Senator Horsford. As long as I am the presiding officer here, my protection is to the individual Senators. We will not agree. This is a forum for disagreement. We know that. We know it very well, especially at these moments. I respect everyone in here. I will

work with everyone in here. I will make certain we keep a sense of decorum. It is for you to deliberate. I will make those decisions as I see fit. You will agree or disagree with me.

Remarks by Senators Denis, Wiener and Leslie.

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

SENATOR DENIS:

Thank you, Mr. President. As I look through the bill, the first thing I notice is that it states, "Ensures sufficient funding for K-12 public education." At first, I thought that this was a bill from our colleague from Clark District No. 11 who each session puts out a bill about adequate funding. I do not think it is sufficient. It is funding. If you look in Section 1, the per pupil funding of $5542 is $600 more than the recommended budget from the Governor which was at $4877. I do not think that was sufficient, but it does some things that we have seen work.

The schools in my district have large Hispanic percentages. I have been in the classrooms. My wife is a kindergarten teacher. Her biggest challenge on the first day of school was that she started out with 28 students and that increased to 33 within a short period of time. She had a student who was a challenge. She had to spend a lot of time with him taking time away from the other students. They were able to make some changes because they were able to get an additional teacher, which allowed her class size to decrease. Under the proposed budget, the class size would have increased again. It is hard to teach the children when the class size gets too large.

I have spoken with other teachers. When I take my daughter to school by 6:00 a.m., there are two cars at the school every morning at 5:30 a.m. They are teachers at the school. When I get home from work after 5:00 p.m., there are still cars at the school. They are the teachers who are still there. We have asked teachers to do more and they are doing more. We are giving them less and they have less resources. This bill restores some of that.

I talk to parents and their number one concern is education for their children. They want what is best for their children. They want to try to help them. They may not know what to do, but I have spent most of my life helping parents to understand how they can help.

Earlier, addressing a bill before us, we talked about how important it was to help the Hispanic community. In the Hispanic community, education is the number one priority. If you truly want to help the Hispanic community, I hope you will support this bill. Thank you.

SENATOR WIENER:

When we had Committee of the Whole, we discussed K-12. As many know, I regularly look at the picture of the kindergarten, first and second graders at Wiener Elementary on my Senate desk before I vote because I vote with children in mind. Many years ago, the Legislature participated in a pilot program called Legislators Back to School. We are starting the eleventh year in that program. It began as a one-day event, and then it expanded to one week held during the third week in September. Now Legislators Back to School is anytime in the year. I look forward to this program which allows me to be in the classroom with young people. Each year, I visit between 3,000 and 4,000 children in 20 to 30 schools. Many of them are not in my district. Visiting children is my soft spot. If a school asks, I will show up at the door.

During the past years, and especially last year, during each visit, I have given the students the opportunity to ask me questions. I tell them that this is a participatory democracy and I am there as a representative in government. To do my job well, I tell them, I need to listen to them. They can ask me any question they want. I tell them that if I do not have the answer I will say so. Overwhelmingly, in every school, the first or second question is, what are you going to do for our education? How are you going to help our teachers? What are you going to do about tools in the classroom? They say they want to learn. I have heard these questions in every single school. It does not matter whether they are inner city or suburban. I travel all over Clark County. The children are asking these questions. They want to know what we are going to do to fund their education. Please fund it, they say. Please give us enough money to learn, they say. That is what this DSA funding bill is all about. These questions come from the mouths of children I may never meet again. I do not know their names, but 3,000 to 4,000 students each year are sharing

this message with me. I listen, and I know you do too. For these reasons and many more, I would appreciate your support for this critical education funding bill.

SENATOR LESLIE:

Thank you, Mr. President. A number years ago when Governor Gibbons and his former wife, Dawn, had the "Education First" pledge, I was not a supporter of that. Dawn Gibbons is a friend of mine. We had many long conversations about it. I told her I was not in favor of it because that is not how the legislative process works.

This is my seventh regular session and this is the first session where I can say, procedurally, we have put education first by getting this bill ready to go this early. I have changed my mind. Education First is the right policy, procedurally. The bill we are sending to the Governor is the right bill. It does not go as far as many of us would like. It goes further than some would like, but it is the right bill. We have to agree, everyone in here cares about his or her children, grandchildren, and the neighbor children's education. We all care about funding education appropriately. I have no doubt about that. Some want more reform before they want to put more money in the system.

There is one thing I do know. Putting less money in the system is not going to make it better. That is the philosophical argument at the base of this. Some believe that putting less money into education will force the system to become better. I think it is just the opposite. It is going to force our students to go to school in overcrowded classrooms, and in classrooms like the one earlier addressed by the Majority Leader with the ceiling coming down, with teachers who are not adequately paid. It is the children who will suffer, not the system. Everyone will vote his or her conscience today. I ask as you press your button to vote to really think about putting education before the politics, before the pledges, before the parties and do the right thing for our students. We will all live with our decisions today. I urge your support. This is the right bill. This is the amount of money our State can afford and our children deserve it.

Roll call on Assembly Bill No. 568:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 568 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 352, 355, 429, 441, 538, 556, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 497; Assembly Bills Nos. 32, 91, 220, 295, 296, 319, 568.

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 Judith Cole.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Monica Kales.

On request of Senator Cegavske, the privilege of the Floor of the Senate Chamber for this day was extended to Roger Buehrer.

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Pat Clary.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Shaun Griffin and Judy Dyer.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and chaperones from the Lena Juniper Elementary School: Bri Barnes, Gage Brady, Alexis Carrillo, Dawson Dillard, Kai Eduave, Trinity Ferns, Briana Flores, Elijah Harding, Briley Hatfield, Anthony Hernandez, Beatriz Herrera-Diaz, Jodan Lear, Emma Linn, Sabrina Ma, Cheyanne Malenke, Josue Ponce, Marco Rodriguez, McKailey Slavin, Maddie Steen, Tuan Tran, Analycia Vargas, Grace Wallace, Bri Barnes, Gage Brady, Alexis Carrillo, Kaitlyn Cambell, Dawson Dillard, Kai Eduave, Trinity Ferns, Briana Flores, Elijah Harding, Briley Hatfield, Anthony Hernandez, Beatriz Herrera-Diaz, Jodan Lear, Emma Linn, Sabrina Ma, Cheyanne Malenke, Josue Ponce, Marco Rodriguez, McKailey Slavin, Maddle Steen, Tuan Tran, Analycia Vargas, Carla Eduave, Maurice Washington, Brian Wallace, Son Ma and Cynthia Flores.

On request of Senator Halseth, the privilege of the Floor of the Senate Chamber for this day was extended to Trish Williamson.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Cynthia Brenneman.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Jill Berryman.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Tia Slores.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Sherry Caston, Claire Hachenberger and Robin Albert.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Dale Gray.

On request of Senator Manendo, the privilege of the Floor of the Senate Chamber for this day was extended to Jenny Care and Angie Wallin.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to David Branson.

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Carol Johnson.

On request of Senator Rhoads, the privilege of the Floor of the Senate Chamber for this day was extended to Bill Sims.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Hilda Wunner and Karina Perez Tuetli.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Dennyse Sewell and Paula Saponaro.

On request of Senator Settelmeyer, the privilege of the Floor of the Senate Chamber for this day was extended to Jill Tolles.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to Robin Fuller.

Senator Horsford moved that the Senate adjourn until Wednesday, May 11, 2011, at 11:30 a.m.

Motion carried.

Senate adjourned at 4:50 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETY-FOURTH DAY

CARSON CITY (Wednesday), May 11, 2011

Senate called to order at 12:26 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Eternal Lord, as a battery is recharged without sound or motion, so will You, in this moment so precious, send Your Spirit into the hearts and minds of Your servants, the Senators in this Chamber.

With newness of life, with spiritual power, vision and lively faith, enable them to meet all the demands of this day with glad anticipation, and give them peace.

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.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 10, 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. 286.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 475, 481.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 3.

Resolution read.

Senator Rhoads moved the adoption of the resolution.

Remarks by Senator Rhoads.

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

Assembly Concurrent Resolution No. 3 urges stakeholders to proactively protect and restore the population and habitat of the greater sage grouse in Nevada. These stakeholders include each state and local governmental agency, each user of public lands, each member of a conservation group, and any other person who is involved in activities to improve the population of the greater sage grouse. The resolution encourages continued efforts to acquire and use funding for that purpose. Copies of the resolution are to be distributed to the conservation groups that have participated in the effort to prevent the greater sage grouse from being listed as an endangered or threatened species.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 475.

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

Motion carried.

Assembly Bill No. 481.

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

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 75.

Bill read third time.

The following amendment was proposed by Senator Cegavske:

Amendment No. 565.

"SUMMARY—Establishes a program to provide private equity funding to businesses engaged in certain industries in this State. (BDR 31-523)"

"AN ACT relating to public financial administration; establishing a program to provide private equity funding to businesses engaged in certain industries in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State is prohibited from donating or loaning state money or credit, or subscribing to or being interested in the stock of any company, association or corporation, except a corporation that is formed for educational or charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State Treasurer to negotiate for the investment of money in the State Permanent School Fund. However, the State Treasurer is prohibited from making certain investments unless he or she obtains a judicial determination that such an investment does not violate the provisions of Section 9 of Article 8 of the Nevada Constitution. (NRS 355.060)

~~[Section 5 of this bill requires the State Treasurer to form an independent corporation for public benefit, the purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses that engage in certain industries.]~~ **Sections 6 and 8** of this bill ~~[authorize]~~ **require** the State Treasurer ~~[to transfer from]~~ **, at the direction of the Commission on Economic Development, to invest an amount not to exceed $50 million of the money in** the State Permanent School Fund ~~[to this corporation an amount not to exceed $50 million, if the State Treasurer obtains a judicial determination that such a use of that money will not violate Article 8, Section 9 of the Nevada Constitution. Section 6 requires this transfer to be made pursuant to an agreement which requires 70 percent of the]~~ **to provide** private equity funding ~~[provided by the corporation to be provided]~~ to businesses engaged in certain industries that are located or seeking to locate in Nevada.

WHEREAS, NRS 355.060 authorizes the State Treasurer to invest money in the State Permanent School Fund in certain investments; and

WHEREAS, The State Treasurer seeks to invest money in the State Permanent School Fund in accordance with sound and prudent investment principles which include a primary emphasis on the preservation of assets followed by an emphasis on return; and

WHEREAS, A greater return on Permanent School Fund money invested by the State Treasurer will have a direct beneficial impact on Nevada schools and students; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would assist the State of Nevada in diversifying the economic base of the State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would attract new businesses and investment to the State of Nevada, resulting in high-paying, quality jobs; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would create greater exposure for institutions of the Nevada System of Higher Education through expanded projects designed around health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would encourage innovation and cooperation among institutions of the Nevada System of Higher Education and private sector businesses located in the State of Nevada; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology other industries critical to economic development in this State would increase the ability of institutions of the Nevada System of Higher Education, businesses in the State of Nevada and nonprofit corporations and organizations in the State of Nevada to compete more successfully for federal and private research and development funding; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences research and development would provide for advanced medical care being available to people living in and visiting the State of Nevada; and

WHEREAS, The State of Nevada, through the establishment of methods to provide private equity funding to businesses in this State, would provide economic growth and world-class medical care and training and would assist in the creation of high-paying, quality jobs for people living in the State of Nevada; now, therefore,

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 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections*** ~~*[3]*~~ ***3.5 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ~~*[*"Corporation for public benefit" means a corporation that is recognized as exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, future amendments to that section and the corresponding provisions of future internal revenue laws.*]~~ **(Deleted by amendment.)**

Sec. 3.5. "Commission" means the Commission on Economic Development or its successor.

Sec. 4. ***"Private equity funding" means an investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange.***

Sec. 5. ~~*[1. The State Treasurer shall cause to be formed in this State an independent corporation for public benefit, the general purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited liability companies that provide private equity funding to businesses:*~~

~~*(a) Located in this State or seeking to locate in this State; and*~~

~~*(b) Engaged primarily in one or more of the following industries:*~~

~~*(1) Health care and life sciences.*~~

~~*(2) Cyber security.*~~

~~*(3) Homeland security and defense.*~~

~~*(4) Alternative energy.*~~

~~*(5) Advanced materials and manufacturing.*~~

~~*(6) Information technology.*~~

~~*(7) Any other industry that the board of directors of the corporation for public benefit determines to be critical to the economic development of this State.*~~

~~*2. The corporation for public benefit created pursuant to subsection 1 may place investments through the use or assistance of:*~~

~~*(a) External asset managers; or*~~

~~(b) Venture capital and private equity investment firms.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[If the State Treasurer obtains the judicial determination required by subsection 3 of NRS 355.060,]~~

1. At the direction of the Commission, the State Treasurer ~~[may transfer]~~ shall invest an amount not to exceed $50 million from the State Permanent School Fund ~~[to the corporation for public benefit created pursuant to section 5 of this act. Such a transfer must be made pursuant to an agreement that requires the corporation for public benefit to:~~

~~1. Provide, through the limited partnerships or limited-liability companies described in subsection 1 of section 5 of this act, private equity funding; and~~

~~2. Ensure]~~ in limited partnerships or limited-liability companies that provide private equity funding to businesses:

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the board of directors of the corporation for public benefit determines to be critical to the economic development of this State.

2. The Commission shall ensure that at least 70 percent of all ~~[private equity funding provided by the corporation]~~ money invested pursuant to subsection 1 is provided to businesses:

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the board of directors of the corporation for public benefit created pursuant to section 5 of this act determines to be critical to the economic development of this State.

3. Investments made pursuant to this section may be placed through the use or assistance of:

(a) External asset managers; or

(b) Private equity investment firms.

4. Money invested pursuant to this section may not be used to make venture capital investments.

5. As used in this section, "venture capital" means equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises.

Sec. 7. ***The State Treasurer shall:***

1. Adopt such regulations as he or she deems necessary to carry out the provisions of sections 2 to 7, inclusive, of this act, including, without limitation, the performance of such audits and the submission of such reports as he or she deems appropriate to ensure compliance with the provisions of sections 2 to 7, inclusive, of this act and the regulations adopted pursuant to this section. The regulations may include criteria for determining eligibility for and use of private equity funding, but the [corporation for public benefit established pursuant to section 5 of this act] Commission must have sole authority for the approval of applications for and the management of private equity funding provided pursuant to sections 2 to 7, inclusive, of this act.

2. Provide the [corporation for public benefit created pursuant to section 5 of this act] Commission with such assistance as is necessary to carry out the provisions of sections 2 to 7, inclusive, of this act and comply with the regulations adopted pursuant to this section.

Sec. 8. NRS 355.060 is hereby amended to read as follows:

355.060 1. The State Controller shall notify the State Treasurer monthly of the amount of uninvested money in the State Permanent School Fund.

2. Whenever there is a sufficient amount of money for investment in the State Permanent School Fund, the State Treasurer shall proceed to negotiate for the investment of the money in:

(a) United States bonds.

(b) Obligations or certificates of the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal Farm Credit Banks Funding Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States.

(c) Bonds of this state or of other states.

(d) Bonds of any county of the State of Nevada.

(e) United States treasury notes.

(f) Farm mortgage loans fully insured and guaranteed by the [Farmers Home Administration] ***Farm Service Agency*** of the United States Department of Agriculture.

(g) Loans at a rate of interest of not less than 6 percent per annum, secured by mortgage on agricultural lands in this state of not less than three times the value of the amount loaned, exclusive of perishable improvements, of unexceptional title and free from all encumbrances.

(h) Money market mutual funds that:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued or guaranteed as to payment of principal and interest by the Federal Government, or its agencies or instrumentalities, or in repurchase agreements that are fully collateralized by such securities.

(i) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than $50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the State Permanent School Fund;

(4) Except for investments made pursuant to paragraph (k), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the State Permanent School Fund; and

(5) Except for investments made pursuant to paragraph (k), the total amount of shares owned by the State Permanent School Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(j) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the State Permanent School Fund.

(k) Mutual funds or common trust funds that consist of any combination of the investments listed in paragraphs (a) to (j), inclusive.

(l) The limited partnerships or limited-liability companies described in ~~[subsection 1 of section 5]~~ section 6 of this act.

3. The State Treasurer shall not invest any money in the State Permanent School Fund pursuant to paragraph (i), (j) or (k) ~~*[or (l)]*~~ of subsection 2 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to paragraph (i), (j) or (k) of subsection 2. The State Treasurer shall establish such criteria for the

qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

4. In addition to the investments authorized by subsection 2, the State Treasurer may make loans of money from the State Permanent School Fund to school districts pursuant to NRS 387.526.

5. No part of the State Permanent School Fund may be invested pursuant to a reverse-repurchase agreement.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

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

Currently, Senate Bill No. 75 requires the Nevada State Treasurer to form an independent corporation for public benefit for the purpose of making private equity investments using up to $50 million of money in the State Permanent School Fund. Under the introduced version of Senate Bill No. 75, before making these investments, the State Treasurer must obtain a judicial determination that such investments do not violate Article 8, Section 9 of the *Nevada Constitution*, which prohibits the State from owning equity in private businesses.

Following the introduction of Senate Bill No. 75, the First Judicial District issued a declaratory order that Article 8, Section 9 of the *Nevada Constitution* does not apply to the State Permanent School Fund because it is a special fund. Based on this declaratory order, Amendment No. 565 to Senate Bill No. 75 removes the requirement to obtain a judicial determination before making investments under this bill and the requirement that the State Treasurer form an independent corporation to make these investments. Instead, the amendment requires the Treasurer, at the direction of the Commission on Economic Development, to make private equity investments in private businesses.

In addition, Senate Bill No. 75 currently authorizes the corporation for public benefit to place investments through venture capital and private equity investment firms. The amendment removes the reference to venture capital and prohibits money invested pursuant to this bill from being used to make venture capital investments. The definition of venture capital investments is based on the definition of venture capital in the "Venture Capital Investment Act of South Carolina."

Motion lost on a division of the house.

The following amendment was proposed by Senator Kieckhefer:

Amendment No. 566.

"SUMMARY—Establishes a program to provide private equity funding to businesses engaged in certain industries in this State. (BDR 31-523)"

"AN ACT relating to public financial administration; establishing a program to provide private equity funding to businesses engaged in certain industries in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State is prohibited from donating or loaning state money or credit, or subscribing to or being interested in the stock of any company, association or corporation, except a corporation that is formed for educational or charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State Treasurer to negotiate for the investment of money in the State Permanent School Fund. However, the State Treasurer is prohibited from making certain investments unless he or she obtains a judicial

determination that such an investment does not violate the provisions of Section 9 of Article 8 of the Nevada Constitution. (NRS 355.060)

Section 5 of this bill requires the State Treasurer to form an independent corporation for public benefit, the purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses that engage in certain industries. **Sections 6 and 8** of this bill authorize the State Treasurer to transfer from the State Permanent School Fund to this corporation an amount not to exceed $50 million, if the State Treasurer obtains a judicial determination that such a use of that money will not violate Article 8, Section 9 of the Nevada Constitution. **Section 6** requires this transfer to be made pursuant to an agreement which requires 70 percent of the private equity funding provided by the corporation to be provided to businesses engaged in certain industries that are located or seeking to locate in Nevada.

WHEREAS, NRS 355.060 authorizes the State Treasurer to invest money in the State Permanent School Fund in certain investments; and

WHEREAS, The State Treasurer seeks to invest money in the State Permanent School Fund in accordance with sound and prudent investment principles which include a primary emphasis on the preservation of assets followed by an emphasis on return; and

WHEREAS, A greater return on Permanent School Fund money invested by the State Treasurer will have a direct beneficial impact on Nevada schools and students; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would assist the State of Nevada in diversifying the economic base of the State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would attract new businesses and investment to the State of Nevada, resulting in high-paying, quality jobs; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would create greater exposure for institutions of the Nevada System of Higher Education through expanded projects designed around health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would encourage innovation and cooperation among institutions of the Nevada System of Higher Education and private sector businesses located in the State of Nevada; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology other industries critical to economic development in this State would increase the ability of institutions of the Nevada System of Higher Education, businesses in the State of Nevada and nonprofit corporations and organizations in the State of Nevada to compete more successfully for federal and private research and development funding; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences research and development would provide for advanced medical care being available to people living in and visiting the State of Nevada; and

WHEREAS, The State of Nevada, through the establishment of methods to provide private equity funding to businesses in this State, would provide economic growth and world-class medical care and training and would assist in the creation of high-paying, quality jobs for people living in the State of Nevada; now, therefore,

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 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, 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. ***"Corporation for public benefit" means a corporation that is recognized as exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, future amendments to that section and the corresponding provisions of future internal revenue laws.***

Sec. 4. ***"Private equity funding" means an investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange.***

Sec. 5. ***1. The State Treasurer shall cause to be formed in this State an independent corporation for public benefit, the general purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses:***

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the board of directors of the corporation for public benefit determines to be critical to the economic development of this State.

2. The corporation for public benefit created pursuant to subsection 1 may place investments through the use or assistance of:

(a) External asset managers; or

(b) ~~[Venture capital and private]~~ Private equity investment firms.

3. Money received pursuant to section 6 of this act by the corporation for public benefit created pursuant to subsection 1 may not be used to make venture capital investments.

4. As used in this section, "venture capital" means equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises.

Sec. 6. *If the State Treasurer obtains the judicial determination required by subsection 3 of NRS 355.060, the State Treasurer may transfer an amount not to exceed $50 million from the State Permanent School Fund to the corporation for public benefit created pursuant to section 5 of this act. Such a transfer must be made pursuant to an agreement that requires the corporation for public benefit to:*

1. Provide, through the limited partnerships or limited-liability companies described in subsection 1 of section 5 of this act, private equity funding; and

2. Ensure that at least 70 percent of all private equity funding provided by the corporation is provided to businesses:

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the board of directors of the corporation for public benefit created pursuant to section 5 of this act determines to be critical to the economic development of this State.

Sec. 7. *The State Treasurer shall:*

1. Adopt such regulations as he or she deems necessary to carry out the provisions of sections 2 to 7, inclusive, of this act, including, without limitation, the performance of such audits and the submission of such reports as he or she deems appropriate to ensure compliance with the provisions of sections 2 to 7, inclusive, of this act and the regulations adopted pursuant to this section. The regulations may include criteria for determining eligibility for and use of private equity funding, but the corporation for public benefit established pursuant to section 5 of this act must have sole authority for the approval of applications for and the management of private equity funding provided pursuant to sections 2 to 7, inclusive, of this act.

2. Provide the corporation for public benefit created pursuant to section 5 of this act with such assistance as is necessary to carry out the provisions of sections 2 to 7, inclusive, of this act and comply with the regulations adopted pursuant to this section.

Sec. 8. NRS 355.060 is hereby amended to read as follows:

355.060 1. The State Controller shall notify the State Treasurer monthly of the amount of uninvested money in the State Permanent School Fund.

2. Whenever there is a sufficient amount of money for investment in the State Permanent School Fund, the State Treasurer shall proceed to negotiate for the investment of the money in:

(a) United States bonds.

(b) Obligations or certificates of the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal Farm Credit Banks Funding Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States.

(c) Bonds of this state or of other states.

(d) Bonds of any county of the State of Nevada.

(e) United States treasury notes.

(f) Farm mortgage loans fully insured and guaranteed by the ~~[Farmers Home Administration]~~ ***Farm Service Agency*** of the United States Department of Agriculture.

(g) Loans at a rate of interest of not less than 6 percent per annum, secured by mortgage on agricultural lands in this state of not less than three times the value of the amount loaned, exclusive of perishable improvements, of unexceptional title and free from all encumbrances.

(h) Money market mutual funds that:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued or guaranteed as to payment of principal and interest by the Federal Government, or its agencies or

instrumentalities, or in repurchase agreements that are fully collateralized by such securities.

(i) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than $50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the State Permanent School Fund;

(4) Except for investments made pursuant to paragraph (k), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the State Permanent School Fund; and

(5) Except for investments made pursuant to paragraph (k), the total amount of shares owned by the State Permanent School Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(j) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the State Permanent School Fund.

(k) Mutual funds or common trust funds that consist of any combination of the investments listed in paragraphs (a) to (j), inclusive.

(l) The limited partnerships or limited-liability companies described in subsection 1 of section 5 of this act.

3. The State Treasurer shall not invest any money in the State Permanent School Fund pursuant to paragraph (i), (j) ***,*** ~~[or]~~ (k) ***or (l)*** of subsection 2 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to paragraph (i), (j) or (k) of subsection 2. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

4. In addition to the investments authorized by subsection 2, the State Treasurer may make loans of money from the State Permanent School Fund to school districts pursuant to NRS 387.526.

5. No part of the State Permanent School Fund may be invested pursuant to a reverse-repurchase agreement.

Senator Kieckhefer moved the adoption of the amendment.

Remarks by Senator Kieckhefer.

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

Thank you, Mr. President. Amendment No. 566 clarifies that investments out of this fund cannot be used for venture capital and instead are limited to private equity.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 9.

Bill read third time.

Roll call on Assembly Bill No. 9:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Rhoads, Roberson, Settelmeyer—8.

Assembly Bill No. 9 having failed to receive a two-thirds majority, Mr. President declared it lost.

Assembly Bill No. 107.

Bill read third time.

Roll call on Assembly Bill No. 107:

YEAS—21.

NAYS—None.

Assembly Bill No. 107 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 109.

Bill read third time.

Roll call on Assembly Bill No. 109:

YEAS—21.

NAYS—None.

Assembly Bill No. 109 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 161.

Bill read third time.

Roll call on Assembly Bill No. 161:

YEAS—21.

NAYS—None.

Assembly Bill No. 161 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 211.

Bill read third time.

Remarks by Senators Parks, Hardy and Leslie.

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

SENATOR PARKS:

Assembly Bill No. 211 extends existing employment protections related to discrimination against a person's race, color, creed, sex, or sexual orientation, among others, by prohibiting discrimination based upon a person's gender identity or expression. Gender identity or expression is defined as gender-related identity, appearance, expression, or behavior of a person, regardless of the person's assigned sex at birth. The measure requires employers to allow an employee to appear, groom, and dress in a manner consistent with the employee's gender identity or expression. Further, sexual orientation and gender identity or expression are added to the list of categories upon which the Nevada Equal Rights Commission may investigate allegations of discrimination.

Transgender individuals are persons who identify with the gender opposite of which they were born, or who express their gender in ways that may not be considered typical.

Transgender persons face unique challenges, including pervasive discrimination, ignorance, and hatred. Transgender individuals do not choose to be the way they are; instead, they are acting on deep-seated and irreversible feelings.

It is wrong to discriminate against people for characteristics that harm no one else and that are a legitimate expression of an innate sense of self. It is harmful to society to deprive such individuals of the ability to earn a living, find housing, to use stores, restaurants and other facilities and, especially, live free of fear.

Nevada has a proud history of protecting the personal liberty of its citizens. It is time to extend that liberty and protection to transgender individuals. I encourage your favorable vote.

SENATOR HARDY:

Thank you, Mr. President. We talk about liberty and liberty of religion that comes after the phrase "gender or expression." We do not allow expression to come after the word "religion." The way the phraseology is, when we talk about gender or expression, it would make more sense if it said "gender expression" instead of "gender or expression." There could be mischief made with the interpretation of the word "expression." I will not be supporting this bill, though I think the concept of discrimination needs looked at in such a way that it allays everyone's concerns. We are not doing that with this vote.

SENATOR LESLIE:

Thank you, Mr. President. I would like to point out that the language in this bill, "gender identity or expression," has been used almost universally in transgender inclusive and anti-discrimination laws around the country. Last week, Hawaii became the thirteenth state to ban discrimination on the basis of gender identity and expression. There are more than 125 cities and counties across the country that also use this language. Almost all Fortune 500 companies include transgender protections in their policies and procedures including our own Caesar's Entertainment.

I urge your support.

Roll call on Assembly Bill No. 211:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Lee, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 211 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 244.
Bill read third time.
Roll call on Assembly Bill No. 244:
YEAS—21.
NAYS—None.

Assembly Bill No. 244 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 269.
Bill read third time.
Remarks by Senator Brower.
Senator Brower requested that his remarks be entered in the Journal.
Thank you, Mr. President. Not serving on the Senate Judiciary Committee, I did not hear the testimony on this bill. In looking at it, I must rise in opposition. This does not make any sense at all in terms of my understanding of criminal procedure.
I have spent some time with grand juries. I have presented cases to grand juries. I know how they operate. I know what the rules are and what the constitutional requirements are. At the grand jury phase of an investigation, there is no defendant. No one has been charged with anything yet. That is the purpose of the grand jury. A target of an investigation cannot be in the room with the grand jury. The target of the investigation cannot have counsel representing him or her in the grand jury. The target cannot provide evidence to the grand jury. That happens later under our system if and when there is an actual indictment. In the federal system, if there is no indictment, then the grand jury proceedings stay secret forever. The world is not supposed to know that the target was investigated.
This fundamentally does not make sense, to me, in how the system works every day and has worked for centuries. The grand jury is supposed to hear evidence and only the evidence that is presented to it during its proceedings. It is not supposed to hear what might have happened or not happened in a previous proceeding in some other courtroom. This bill is not necessary and is a major departure from centuries of grand jury practice. I do not see the need for this. I urge you to vote "no."

Roll call on Assembly Bill No. 269:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 269 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 271.
Bill read third time.

Roll call on Assembly Bill No. 271:
YEAS—21.
NAYS—None.

Assembly Bill No. 271 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 284.
Bill read third time.
Remarks by Senator Roberson.
Senator Roberson requested that his remarks be entered in the Journal.
Thank you, Mr. President. I wanted to voice my support for this bill. I appreciate the work of Majority Leader Conklin. This bill makes a lot of common sense changes that we need.

Roll call on Assembly Bill No. 284:
YEAS—20.
NAYS—Gustavson.

Assembly Bill No. 284 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 321.
Bill read third time.
Roll call on Assembly Bill No. 321:
YEAS—21.
NAYS—None.

Assembly Bill No. 321 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 352.
Bill read third time.
Roll call on Assembly Bill No. 352:
YEAS—20.
NAYS—Settelmeyer.

Assembly Bill No. 352 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 355.
Bill read third time.
Roll call on Assembly Bill No. 355:
YEAS—21.
NAYS—None.

Assembly Bill No. 355 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 408.
Bill read third time.
Roll call on Assembly Bill No. 408:
YEAS—21.
NAYS—None.

Assembly Bill No. 408 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 429.
Bill read third time.
Roll call on Assembly Bill No. 429:
YEAS—21.
NAYS—None.

Assembly Bill No. 429 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 441.
Bill read third time.
Roll call on Assembly Bill No. 441:
YEAS—21.
NAYS—None.

Assembly Bill No. 441 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 538.
Bill read third time.
Roll call on Assembly Bill No. 538:
YEAS—21.
NAYS—None.

Assembly Bill No. 538 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 556.
Bill read third time.
Roll call on Assembly Bill No. 556:
YEAS—21.
NAYS—None.

Assembly Bill No. 556 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved to reconsider the vote on Amendment No. 565 to Senate Bill No. 75.

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

Senate in recess at 1:13 p.m.

SENATE IN SESSION

At 1:20 p.m.
President Krolicki presiding.
Quorum present.

Remarks by Senator Horsford.

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

Thank you, Mr. President. Out of respect to my colleague from Clark District No. 12, the motion to reconsider is appropriate and we will support it. Let us discuss the process and the procedure. Senate Bill No. 75 was amended with Amendment 566 offered by Senator Kieckhefer. That amendment will be reprinted and Senate Bill No. 75 as amended will be on General File. The notice offered by my colleague from Clark District No. 12 for reconsideration on his vote on Amendment no. 565 is in order. It will be reconsidered. It will be reconsidered on General File tomorrow based on the notice you have given today. It will go to reprint with the amendment. It will be on General File. Amendment No. 565 will be reconsidered on General File the next legislative day. That is appropriate.

Motion carried to reconsider the vote on Amendment No. 565 to Senate Bill No. 75 on General File for the next Legislative day.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 6, 25, 57, 102, 150, 181, 194, 226, 350, 537.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Parks, the privilege of the Floor of the Senate Chamber for this day was extended to Lauren Scott.

Senator Horsford moved that the Senate adjourn until Friday, May 13, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 1:23 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETY-SIXTH DAY

CARSON CITY (Friday), May 13, 2011

Senate called to order at 11:16 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

Our God,

We are glad that You are never tired of listening to the requests of Your friends here on Earth. You are a God who has told us that You never slumber or sleep. There are a few here in this Senate Chamber who probably are a little sleep deprived, but give them Your wisdom as they sort out the final steps that need to be taken to close the financial needs in our State.

Thank You for Your answers to this prayer.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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 Education, to which was referred Assembly Bill No. 395, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MO DENIS, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 430, 444, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 244, 441, 475, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 43, 113, 483, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 1, 37, 42, 45, 61, 63, 68, 73, 115, 145, 146, 237, 420, 422, 454, 472, 544, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 50, 110, 280, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

ALLISON COPENING, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Assembly Bill No. 82, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Revenue, to which were referred Assembly Bills Nos. 46, 200; Assembly Joint Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHEILA LESLIE, *Chair*

Mr. President:

Your Select Committee on Economic Growth and Employment, to which was referred Assembly Bill No. 182, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 11, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 130, 248, 406; Assembly Bills Nos. 486, 491, 493, 495.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 75 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 486.

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

Motion carried.

Assembly Bill No. 491.

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

Motion carried.

Assembly Bill No. 493.

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

Motion carried.

Assembly Bill No. 495.

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

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill No. 286.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Annette Brown, Jill Derby, Emmelie Isreal, Carol Larry, Trinidad Martin and Jeanie Pratt.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Mike Shirley.

On request of Senator Manendo, the privilege of the Floor of the Senate Chamber for this day was extended to Lydia DelRio and Sherri Thompson.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to the following students and teachers from the Paul Culley Empowerment School: Charlie Urias, Kaitlyn Boehm, Jasmine Walker, Saul Lovera, Jeremiah Loeffler, Yareth Medina, Omar Bojorquez, Kathleen Westbrook, Ruby Rodriguez, Autumn Cody, Anthony Toledo, Alex Martinez, Laila Dow, Natalie Buchannan, Aldo Toribio, Yamilet Herrera, Melanie Angeles, Savannah Moore, Stephanie Haro, Armando Herrera, Ashley Abrego, Natalie Arredondo, Caleb Banks, Jennifer Cruz, Alesha Darragh, Beverly Diaz, Alejandro Dorantes, Diana Galvez, Dayanna Gonzalez, Carlos Martinez, Litzy Nolasco, Wendy Rangel, Emma Schrenk, Ezekiel Soriano, Eric Stiegler, Christopher Sutuj-Martinez, Johanna Vivanco, Areana Zavala, Jasmine Aguilar, Jose Aguilar, Davyn Anderson, Marlon Arias, Michelle Arias, Rae' Nyece Edwards, Cierra Hernandez, Greyson Holding, Victor Marin, Miguel Mendoza, Marco Moreno, Jared Pascual, Himig Reyes, Mike Reyes, Sarahy Rodriguez, Adair Serrano, Sienna Tracey, Nicolas Ubaldo, Mary Walker, Analysa Zepeda, Leslie Carmona, Maya Clevenstine, James Cox, Joshua Ensworth, Luis Fuentes, Candace Humphrey, Kevin Jaimes, Christian Jimenez, Nicholas Johnson, Alarae Malone, Rachel Perez-Soto, Alejandra Quezada, Eileen Ureno, Zasean Woods, Jennifer Alejos, Deborath Arellano, Perla Arias, Henry Brandt, Angel Carbajal, Alan Cirilo, Yahaira Diaz, Nickolas Escobar, Maliqui Flagg, Chad Gatchalian, Jose Hernandez-Martinez, Catherine Mondaca, Jennifer Patino, Jazz Porter, Ellanore Preston, Jesus Razo, Xzachary Roof, Elizabeth Stoutenberg, Helen Thean, Lilian Vincent, Ricardo Zagal, Jovan Prieto, Mariah Shackelford; teachers: Christy Turner, Penny Everest, Patrice Vogelsang, Janyce Benson, Michael Compton and Shelly Crabtree.

Senator Wiener moved that the Senate adjourn until Saturday, May 14, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 11:29 a.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETY-SEVENTH DAY

CARSON CITY (Saturday), May 14, 2011

Senate called to order at 11:13 a.m.

President Krolicki presiding.

Roll called.

All present except Senator Schneider, who was excused.

Prayer by Senator Cegavske.

Oh, dear Lord,
Make me an instrument of Your peace. Where there is hatred, let me so love.
Where there is injury, pardon.
Where there is doubt, faith.
Where there is despair, hope.
Where there is darkness, light.
Where there is sadness, joy.
Oh, divine Master, grant that I may not so much seek to be consoled as to console.
To be understood, as to understand.
To be loved as to love.
For it is in giving that we receive.
It is in parting that we are pardoned.
It is in dying that we are born to return to life in Your name,

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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 Assembly Bills Nos. 23, 130, 141, 396, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 480, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 97, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, your Committee on Finance, to which were referred Senate Bills Nos. 470, 474, 478, 479, 482, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 13, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 49, 84, 218, 408; Senate Joint Resolution No. 14.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 419, 519.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 193, Amendment No. 568, and respectfully requests your honorable body to concur in said amendment.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 557 to Assembly Bill No. 271.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 419.

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

Motion carried.

Assembly Bill No. 519.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 430.
Bill read second time and ordered to third reading.

Senate Bill No. 441.
Bill read second time and ordered to third reading.

Senate Bill No. 444.
Bill read second time and ordered to third reading.

Senate Bill No. 475.
Bill read second time and ordered to third reading.

Assembly Bill No. 1.
Bill read second time and ordered to third reading.

Assembly Bill No. 37.
Bill read second time and ordered to third reading.

Assembly Bill No. 42.
Bill read second time and ordered to third reading.

Assembly Bill No. 45.
Bill read second time and ordered to third reading.

Assembly Bill No. 46.
Bill read second time and ordered to third reading.

Assembly Bill No. 50.
Bill read second time and ordered to third reading.

Assembly Bill No. 61.
Bill read second time and ordered to third reading.

Assembly Bill No. 63.
Bill read second time and ordered to third reading.

Assembly Bill No. 68.
Bill read second time and ordered to third reading.

Assembly Bill No. 73.
Bill read second time and ordered to third reading.

Assembly Bill No. 82.
Bill read second time.

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

Amendment No. 567.

"SUMMARY—Makes various changes relating to elections. (BDR 24-407)"

"AN ACT relating to elections; revising provisions governing registering to vote by computer; authorizing additional mailing precincts in certain circumstances; making various other changes relating to the administration and conduct of elections; **prohibiting foreign nationals from making campaign contributions; prohibiting certain persons from receiving such contributions;** authorizing the disposition of unspent campaign contributions to a governmental entity and for the use of legal expenses; requiring the annual registration of committees for political action; making various other changes relating to campaign finance; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill allows a county clerk to establish mailing precincts or absent ballot mailing precincts if approved by the Secretary of State, in addition to circumstances authorized for the creation of mailing precincts in existing law. (NRS 293.213)

Sections 8 and 23 of this bill provide that if a county clerk establishes a system for using a computer for voter registration for that county, the system established must comply with any procedures and requirements prescribed by the Secretary of State. Existing law requires county clerks to verify the validity of the signatures of persons who sign petitions for initiative or referendum, petitions to recall public officers, petitions to qualify as a political party, petitions for filling ballot vacancies or petitions to place minor party or independent candidates on the ballot against the voter registration records, including applications to register to vote. (NRS 293.1277) **Section 5** of this bill provides that if a computer is used for voter registration in a county, the county clerk may rely on such indicia as may be prescribed by the Secretary of State to complete the signature verification.

Sections 9, 26 and 36 of this bill revise the manner in which it is required to list on sample ballots and ballots the names of candidates who have the same names so that if two or more candidates in an election have the same given name and surname and one candidate is an incumbent, the word "Incumbent" must appear on the sample ballot and ballot next to the name of the candidate who is the incumbent.

Section 12 of this bill requires, in addition to other information posted at polling places on election day, the posting of information concerning the eligibility of a candidate, question or other matter to appear on the ballot as a result of judicial determination or by operation of law.

Sections 15 and 35 of this bill authorize voters to vote in mailing precincts if it appears to the satisfaction of the Secretary of State, in addition to the county clerk, that the circumstances authorizing the creation of a mailing precinct exist.

Existing law authorizes a city or county clerk to assess a charge, not to exceed the cost of printing the applications, against a political party or other entity that requests more than 50 applications to register to vote by mail in any 12-month period. (NRS 293.443) **Section 16** of this bill authorizes the Secretary of State to assess such a charge as well.

Section 19 of this bill changes the deadline for the Secretary of State to submit a report concerning primary and general elections to the Legislature from not later than 30 days before the start of a regular legislative session to not sooner than 30 days before and not later than 30 days after the first day of each regular legislative session.

Section 20 of this bill requires recruitment offices of the Armed Forces of the United States to serve as voter registration agencies, in addition to other entities specified in existing law.

Section 21 of this bill prohibits a voter registration agency from knowingly employing a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft or fraud.

Section 22 of this bill prohibits a county clerk from knowingly appointing as a field registrar any person who has been convicted of a felony involving theft or fraud.

Section 27 of this bill amends the deadlines for the county clerk to transmit the number of registered voters in the county to the Secretary of State for the primary and general elections.

Section 28 of this bill expands the crime of threatening a person in connection with an election or petition to include threatening a person in connection with the registration of voters and to include the use of or threatening to use intimidation. **Section 28** also increases the penalty for such a crime from a gross misdemeanor to a category E felony.

Section 29 of this bill increases the penalty for interfering with the conduct of an election from a gross misdemeanor to a category E felony.

Section 30 of this bill provides that polling information from a voter regarding whether the voter intends to vote for or against a particular political party, candidate or ballot question is not "electioneering."

Section 32 of this bill provides that if a person tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots, such an act is punishable as a category B felony.

Section 33 of this bill makes the intentional failure to submit to the county clerk an elector's completed application to register to vote by a person who provided the application to the elector an unlawful act punishable as a category E felony.

The Federal Election Campaign Act prohibits: (1) a foreign national from directly or indirectly making a campaign contribution in connection with a state or local election; and (2) any person from knowingly soliciting, accepting or receiving any campaign contribution from a foreign national. (2 U.S.C. § 441e; 11 C.F.R. § 110.20) Section 40.5 of this bill provides a similar prohibition in state law against a foreign national making a contribution to certain persons or groups, including candidates, committees for political action, persons who make independent expenditures, political parties and legislative caucuses. Section 40.5 also prohibits those persons and groups from receiving a contribution from a foreign national.

Existing law prohibits a person from making certain campaign contributions over $5,000 during certain periods and prohibits candidates from accepting such contributions during those periods. (NRS 294A.100, 294A.287) **Sections 43 and 60** of this bill also prohibit a person from committing to make such a contribution. **Section 61** of this bill similarly adds the prohibition on committing to make such a contribution to the prohibition on soliciting and accepting any monetary contribution for any political purpose during a specified period which is applicable to Legislators, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor and the Governor-Elect.

Section 50 of this bill adds to the acceptable methods of disposing of unspent campaign contributions donating money to a governmental entity and allows the person disposing of the unspent contributions to specify how the governmental entity may use the money. **Section 50** also allows certain public officers to use unspent campaign contributions in a future election in certain circumstances.

Section 56 of this bill requires committees for political action to file with the Secretary of State an updated form of registration on or before January 15 of each year.

Section 59 of this bill sets forth the acceptable methods of and deadline for disposing of unspent money in a legal defense fund. **Sections 51 and 63** of this bill require a person who disposes of unspent money in a legal defense

fund to report to the Secretary of State how the person disposed of such money.

Sections 48, 54 and 84 of this bill remove requirements that certain persons or groups who advocate the passage or defeat of a ballot question register. As a result, these persons and groups are subject to the same registration ~~[and reporting]~~ requirements as committees for political action **.** ~~[and must]~~ **Under existing law, such persons and groups are not required to** report ~~[certain]~~ contributions and expenditures ~~[which exceed $100, rather than $10,000 as provided in existing law for]~~ **until they have received or expended money in excess of $10,000 to advocate the passage or defeat of a ballot question. (NRS 294A.150, 294A.220) Sections 48 and 54 eliminate this threshold and therefore require** these persons or groups ~~[.]~~ **to report contributions received and expenditures made in excess of $1,000 during any reporting period.**

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. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in the county clerk's county and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each petition district contained or fully contained within the county clerk's county.

2. If more than 500 names have been signed on the documents submitted to a county clerk, the county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, the county clerk shall ensure that every application in the file is examined, including any application in his or her possession which may not yet be entered into the county clerk's records. ~~[The]~~ ***Except as otherwise provided in this subsection, the*** county clerk shall

rely only on the appearance of the signature and the address and date included with each signature in making his or her determination. ***If, pursuant to NRS 293.506, a county clerk establishes a system to allow persons to register to vote by computer, the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his or her determination.***

4. In the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, when the county clerk is determining the number of registered voters who signed the documents from each petition district contained fully or partially within the county clerk's county, he or she must use the statewide voter registration list available pursuant to NRS 293.675.

5. Except as otherwise provided in subsection 7, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of the examination, including the tally of signatures by petition district, if required, and transmit the documents with the certificate to the Secretary of State. If a petition district comprises more than one county and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the certificate. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

6. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

7. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

8. The Secretary of State shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may establish that precinct as a mailing precinct.

2. Except as otherwise provided in NRS 293.208, the county clerk in any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed may abolish two or more existing mailing precincts and combine those

mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. ***A county clerk may establish a mailing precinct or an absent ballot mailing precinct that does not meet the requirements of subsection 1, 2 or 3 if the county clerk obtains prior approval from the Secretary of State.***

5. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, Assemblywoman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

Sec. 8. NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.

(b) The ~~[procedure]~~ ***procedures*** to be followed ~~[when a computer is used]~~ ***and the requirements of a system established pursuant to NRS 293.506 for using a computer*** to register voters and to keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with the Secretary of State, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his or her county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against, and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be

prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 9. NRS 293.2565 is hereby amended to read as follows:

293.2565 1. Except as otherwise provided in subsection 2, in any election regulated by this chapter, the name of a candidate printed on a ballot may be the given name and surname of the candidate or a contraction or familiar form of his or her given name followed by his or her surname. A nickname of not more than 10 letters may be incorporated into the name of a candidate. The nickname must be in quotation marks and appear immediately before the surname of the candidate. A nickname must not indicate any political, economic, social or religious view or affiliation and must not be the name of any person, living or dead, whose reputation is known on a statewide, nationwide or worldwide basis, or in any other manner deceive a voter regarding the person or principles for which he or she is voting.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** any election regulated by this chapter, if two or more candidates have the same ***given name and*** surname ~~[or surnames so similar as to be likely to cause confusion]~~ and:

(a) None of the candidates is an incumbent, the middle names or middle initials, if any, of the candidates must be included in the names of the candidates ***;*** ~~[as printed on the ballot;]~~ or

(b) One of the candidates is an incumbent, the name of the incumbent must be listed first and ~~[must be printed in bold type.~~

~~3. Where a system of voting other than by paper ballot is used and the provisions of paragraph (b) of subsection 2 are applicable, the Secretary of State may distinguish a candidate who is an incumbent in a manner other than printing the name of the incumbent in bold type provided that the~~

~~manner used clearly emphasizes the name of the incumbent in a manner similar to printing his or her name in bold type.]~~ ***the word "Incumbent" must appear next to the name of the candidate who is the incumbent.***

Sec. 10. NRS 293.272 is hereby amended to read as follows:

293.272 1. Except as otherwise provided in subsection 2 and in NRS 293.2725 and 293.3083, a person who registered ***by mail or computer*** to vote ~~[pursuant to the provisions of NRS 293.5235]~~ shall, for the first election in which the person votes at which that registration is valid, vote in person unless he or she has previously voted in the county in which he or she is registered to vote.

2. The provisions of subsection 1 do not apply to a person who:

(a) Is entitled to vote in the manner prescribed in NRS 293.343 to 293.355, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293.316 or 293.3165;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the county clerk.

Sec. 11. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers by mail ***or computer*** to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with an application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates

the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with an application to register to vote a driver's license number or at least the last four digits of his or her social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in the application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 12. NRS 293.3025 is hereby amended to read as follows:

293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:

1. A sample ballot;

2. Information concerning the date and hours of operation of the polling place;

3. Instructions for voting and casting a ballot, including a provisional ballot;

4. Instructions concerning the identification required for persons who registered by mail and are first-time voters for federal office in this State;

5. Information concerning the accessibility of polling places to persons with disabilities; ~~[and]~~

6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation ~~[.]~~ ***; and***

7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of a judicial determination or by operation of law, if any.

Sec. 13. NRS 293.3081 is hereby amended to read as follows:

293.3081 A person at a polling place may cast a provisional ballot in an election to vote for a candidate for federal office if the person complies with the applicable provisions of NRS 293.3082 and:

1. Declares that he or she has registered to vote and is eligible to vote at that election in that jurisdiction, but his or her name does not appear on a voter registration list as a voter eligible to vote in that election in that jurisdiction or an election official asserts that the person is not eligible to vote in that election in that jurisdiction;

2. Applies by mail ~~[,]~~ ***or computer,*** on or after January 1, 2003, to register to vote and has not previously voted in an election for federal office in this State and fails to provide the identification required pursuant to paragraph (a) of subsection 1 of NRS 293.2725 to the election board officer at the polling place; or

3. Declares that he or she is entitled to vote after the polling place would normally close as a result of a court order or other order extending the time established for the closing of polls pursuant to a law of this State in effect 10 days before the date of the election.

Sec. 14. NRS 293.3083 is hereby amended to read as follows:

293.3083 A person may cast a ballot by mail to vote for a candidate for federal office, which must be treated as a provisional ballot by the county or city clerk if the person:

1. Applies by mail ***or computer*** to register to vote and has not previously voted in an election for federal office in this State;

2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725 to the county or city clerk at the time that the person mails the ballot; and

3. Completes the written affirmation set forth in subsection 1 of NRS 293.3082.

Sec. 15. NRS 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk ***and Secretary of State*** that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) Shall designate at least one polling place in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

4. In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) May designate one or more polling places in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of

subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

5. Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.

Sec. 16. NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail in any 12-month period, the clerk ***or the Secretary of State*** may assess a charge, not to exceed the cost of printing the applications.

Sec. 17. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on the Secretary of State's Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388;

(c) A current list of the registered voters in this State that also indicates the petition district in which each registered voter resides;

(d) A map or maps indicating the boundaries of each petition district; and

(e) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 293.4695 is hereby amended to read as follows:

293.4695 1. Each county clerk shall collect the following information regarding each primary and general election, on a form provided by the Secretary of State and made available at each polling place in the county, each polling place for early voting in the county, the office of the county clerk and any other location deemed appropriate by the Secretary of State:

(a) The number of ballots that have been discarded or for any reason not included in the final canvass of votes, along with an explanation for the exclusion of each such ballot from the final canvass of votes.

(b) A report on each malfunction of any mechanical voting system, including, without limitation:

(1) Any known reason for the malfunction;

(2) The length of time during which the mechanical voting system could not be used;

(3) Any remedy for the malfunction which was used at the time of the malfunction; and

(4) Any effect the malfunction had on the election process.

(c) A list of each polling place not open during the time prescribed pursuant to NRS 293.273 and an account explaining why each such polling place was not open during the time prescribed pursuant to NRS 293.273.

(d) A description of each challenge made to the eligibility of a voter pursuant to NRS 293.303 and the result of each such challenge.

(e) A description of each complaint regarding a ballot cast by mail or facsimile filed with the county clerk and the resolution, if any, of the complaint.

(f) The results of any audit of election procedures and practices conducted pursuant to regulations adopted by the Secretary of State pursuant to this chapter.

(g) The number of provisional ballots cast and the reason for the casting of each provisional ballot.

2. Each county clerk shall submit to the Secretary of State, on a form provided by the Secretary of State, the information collected pursuant to subsection 1 not more than 60 days after each primary and general election.

3. The Secretary of State may contact any political party and request information to assist in the investigation of any allegation of voter intimidation.

4. The Secretary of State shall establish and maintain an Internet website pursuant to which the Secretary of State shall solicit and collect voter comments regarding election processes.

5. The Secretary of State shall compile the information and comments collected pursuant to this section into a report and shall submit the report to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~[not later than]~~ ***not sooner than*** 30 days before ***and not later than 30 days after*** the ~~[start]~~ ***first day*** of each regular session of the Legislature.

6. The Secretary of State may make the report required pursuant to subsection 5 available on an Internet website established and maintained by the Secretary of State.

Sec. 20. NRS 293.504 is hereby amended to read as follows:

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons with disabilities in this State;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable; ~~[and]~~

(f) ***Recruitment offices of the United States Armed Forces; and***

(g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) ~~[Make]~~ ***Except as otherwise provided in subsection 3, distribute*** applications to register to vote which may be returned by mail ~~[available to each person who applies for or receives]~~ ***with any application for*** services or assistance from the agency ~~[,]~~ ***or submitted for any other purpose and with each application for recertification, renewal or change of address submitted to the agency that relates to such services, assistance or other purpose;***

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. ***A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency or submits an application for any other purpose if the person declines to register to vote and submits to the agency a written form that meets the requirements of 42 U.S.C. § 1973gg-5(a)(6). No information related to the declination to register to vote may be used for any purpose other than voter registration.***

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if the county clerk receives the application not later than 5 days after that date.

~~[4.]~~ ***5.*** The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 21. NRS 293.5045 is hereby amended to read as follows:

293.5045 1. A person who works in a voter registration agency shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display a political preference or party allegiance in a place where it can be seen by an applicant;

(c) Make any statement or take any action to discourage an applicant from registering to vote; or

(d) Make any statement or take any action which would lead the applicant to believe that a decision to register to vote has any effect on the availability of any services or benefits provided by the State or Federal Government.

2. A person who violates any of the provisions of ~~[this section]~~ ***subsection 1*** is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. A voter registration agency shall not knowingly employ a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft or fraud. The Secretary of State may bring an action against a voter registration agency to collect a civil penalty of not more than $5,000 for each person who is employed by the voter registration agency in violation of this subsection. Any civil penalty collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.

Sec. 22. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which the field registrar is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform

such duties as the county clerk may direct. ***The county clerk shall not knowingly appoint any person as a field registrar who has been convicted of a felony involving theft or fraud. The Secretary of State may bring an action against a county clerk to collect a civil penalty of not more than $5,000 for each person who is appointed as a field registrar in violation of this subsection. Any civil penalty collected pursuant to this subsection must be deposited with the State Treasurer for credit to the State General Fund.***

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his or her possession five or more completed applications to register to vote, the field registrar shall forward them to the county clerk, but in no case may the field registrar hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his or her possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his or her possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him or her by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Delegate any of his or her duties to another person; or

(b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself or herself out to be or attempt to exercise the duties of a field registrar unless the person has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Solicit a vote for or against a particular question or candidate;

(b) Speak to a voter on the subject of marking his or her ballot for or against a particular question or candidate; or

(c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,

➥ while registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, the county clerk shall issue a receipt to the field registrar. The receipt must include:

(a) The number of persons registered; and

(b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or

(b) Register a person who fails to provide satisfactory proof of identification and the address at which the person actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his or her name on the duplicate copy or receipt retained by the voter upon completion of the form; and

(b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 23. NRS 293.506 is hereby amended to read as follows:

293.506 ***1.*** A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to register voters and to keep records of registration. ~~[The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to the voter's registration.]~~

2. A system established pursuant to subsection 1 must comply with any procedures and requirements prescribed by the Secretary of State pursuant to NRS 293.250.

Sec. 24. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register ~~[:]~~ ***to vote:***

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar or a voter registration agency, completing the application to register to vote, giving true and

satisfactory answers to all questions relevant to his or her identity and right to vote, and providing proof of residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; ~~[or]~~

(d) At his or her residence with the assistance of a field registrar pursuant to NRS 293.5237 ~~[.]~~ ***; or***

(e) By submitting an application to register to vote by computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.

➥ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering the person. If the applicant registers to vote pursuant to this subsection and fails to provide proof of residence and identity, the applicant must provide proof of residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his or her own given or first name, and not under the given or first name or initials of his or her spouse.

4. An elector who is registered and changes his or her name must complete a new application to register to vote. The elector may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; ~~[or]~~

(d) At any voter registration agency ~~[.]~~ ***; or***

(e) By submitting an application to register to vote by computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register voters.

➥ If the elector fails to register under his or her new name, the elector may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of an application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote pursuant to

NRS 293.485, the county clerk shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

(b) The date of issuance; and

(c) The signature of the county clerk.

7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if the county clerk believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:

(a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application to register to vote.

➥ If the District Attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.

Sec. 25. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which the person resides ~~.~~ ***or may register to vote by computer, if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register to vote.*** The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If the county clerk determines that the application is complete, he or she shall, within 10 days after receiving the application, mail to the applicant:

(a) A notice that the applicant is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, the county clerk shall, as soon as possible, mail a notice to the applicant that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after receiving the information, mail to the applicant:

(a) A notice that the applicant is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register on the date the application is postmarked or received by the county clerk, whichever is earlier.

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at the assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by ~~[mail]~~ *:*

(a) Mail, which must be used to register to vote by mail in this State.

(b) Computer, which must be used to register to vote in a county if the county clerk has established a system pursuant to NRS 293.506 for using a computer to register to vote.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

> NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on the application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 26. NRS 293.565 is hereby amended to read as follows:

293.565 1. Except as otherwise provided in subsection ~~[2,]~~ ***3,*** sample ballots must include:

(a) If applicable, the statement required by NRS 293.267;

(b) The fiscal note or description of anticipated financial effect, as provided pursuant to NRS 218D.810, 293.250, 293.481, 293.482, 295.015 or 295.095 for each proposed constitutional amendment, statewide measure,

measure to be voted upon only by a special district or political subdivision and advisory question;

(c) An explanation, as provided pursuant to NRS 218D.810, 293.250, 293.481, 293.482 or 295.121, of each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question;

(d) Arguments for and against each proposed constitutional amendment, statewide measure, measure to be voted upon only by a special district or political subdivision and advisory question, and rebuttals to each argument, as provided pursuant to NRS 218D.810, 293.250, 293.252, 293.481, 293.482 or 295.121; and

(e) The full text of each proposed constitutional amendment.

2. ***If, pursuant to the provisions of NRS 293.2565, the word "Incumbent" must appear on the ballot next to the name of the candidate who is the incumbent, the word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent.***

3. Sample ballots that are mailed to registered voters may be printed without the full text of each proposed constitutional amendment if:

(a) The cost of printing the sample ballots would be significantly reduced if the full text of each proposed constitutional amendment were not included;

(b) The county clerk ensures that a sample ballot that includes the full text of each proposed constitutional amendment is provided at no charge to each registered voter who requests such a sample ballot; and

(c) The sample ballots provided to each polling place include the full text of each proposed constitutional amendment.

~~[3.]~~ ***4.*** Before the period for early voting for any election begins, the county clerk shall cause to be mailed to each registered voter in the county a sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The county clerk shall mail a notice of the change to each registered voter in the county not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

~~[4.]~~ ***5.*** Except as otherwise provided in subsection ~~[5,]~~ ***6,*** a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type; and

(b) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

~~[5.]~~ ***6.*** A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~[6.]~~ ***7.*** The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

~~[7.]~~ ***8.*** If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots mailed to that person from the county are in large type.

~~[8.]~~ ***9.*** The county clerk shall include in each sample ballot a statement indicating that the county clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the county clerk has provided pursuant to subsection 4 of NRS 293.2955 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the county clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at his or her regularly designated polling place.

~~[9.]~~ ***10.*** The cost of mailing sample ballots for any election other than a primary or general election must be borne by the political subdivision holding the election.

Sec. 27. NRS 293.567 is hereby amended to read as follows:

293.567 After the close of registration for each primary election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the primary election and after the close of registration for each general election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the Secretary of State.

Sec. 28. NRS 293.710 is hereby amended to read as follows:

293.710 1. It is unlawful for any person, in connection with any election ***,*** ~~[or]~~ petition ~~[,]~~ ***or registration of voters,*** whether acting himself or herself or through another person in his or her behalf, to:

(a) Use or threaten to use any force, ***intimidation,*** coercion, violence, restraint or undue influence;

(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;

(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his or her vote; or

(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.

2. ~~[Unless a greater penalty is provided by law, any violation]~~ ***A person who violates a provision*** of this section is ~~[a gross misdemeanor.]~~ ***guilty of a category E felony and shall be punished as provided in NRS 193.130.***

Sec. 29. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than the one at which the person is entitled to vote.

(e) Show his or her ballot to any person, after voting, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he or she intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of the election board officer's official duties, inside a polling place, ask another person his or her name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his or her ballot by which it may afterward be identified as the one voted by the person.

3. Any person who violates any provision of this section is guilty of a ~~[gross misdemeanor.]~~ ***category E felony and shall be punished as provided in NRS 193.130.***

Sec. 30. NRS 293.740 is hereby amended to read as follows:

293.740 1. Except as otherwise provided in subsection 2, it is unlawful inside a polling place or within 100 feet from the entrance to the building or other structure in which a polling place is located:

(a) For any person to solicit a vote or speak to a voter on the subject of marking the voter's ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

➥ The county clerk or registrar of voters shall ensure that, at the outer limits of the area within which electioneering is prohibited, notices are continuously posted on which are printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

2. The provisions of subsection 1 do not apply to the conduct of a person in a private residence or on commercial or residential property that is within 100 feet from the entrance to a building or other structure in which a polling place is located. The provisions of subsection 1 are not intended to prohibit a person from voting solely because he or she is wearing a prohibited political insigne and is reasonably unable to remove the insigne or cover it. In such a case, the election board officer shall take such action as is necessary to allow the voter to vote as expediently as possible and then assist the voter in exiting the polling place as soon as is possible.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

4. As used in this section, "electioneering" means campaigning for or against a candidate, ballot question or political party by:

(a) Posting signs relating to the support of or opposition to a candidate, ballot question or political party;

(b) Distributing literature relating to the support of or opposition to a candidate, ballot question or political party;

(c) Using loudspeakers to broadcast information relating to the support of or opposition to a candidate, ballot question or political party;

(d) Buying, selling, wearing or displaying any badge, button or other insigne which is designed or tends to aid or promote the success or defeat of any political party or a candidate or ballot question to be voted upon at that election; ***or***

(e) ~~[Polling or otherwise soliciting from a voter information as to whether the voter intends to vote or has voted for or against a particular political party, candidate or ballot question; or~~

~~(f)~~] Soliciting signatures to any kind of petition.

Sec. 31. **(**Deleted by amendment.)

Sec. 32. NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a category D felony and shall be punished as provided in NRS 193.130.

2. ***A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to influence the***

outcome of an election 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 2 years and a maximum term of not more than 20 years.

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Sec. 33. NRS 293.800 is hereby amended to read as follows:

293.800 1. A person who, for himself, herself or another person, willfully gives a false answer or answers to questions propounded to the person by the registrar or field registrar of voters relating to the information called for by the application to register to vote, or who willfully falsifies the application in any particular, or who violates any of the provisions of the election laws of this State or knowingly encourages another person to violate those laws is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A public officer or other person, upon whom any duty is imposed by this title, who willfully neglects his or her duty or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this State, except where another penalty is provided, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. If the person is a public officer, his or her office is forfeited upon conviction of any offense provided for in subsection 2.

4. A person who causes or endeavors to cause his or her name to be registered, knowing that he or she is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he or she causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. A field registrar or other person who ~~[:]~~ ***provides to an elector an application to register to vote and who:***

(a) Knowingly falsifies ~~[an]~~ ***the*** application ~~[to register to vote]~~ or knowingly causes an application to be falsified; ~~[or]~~

(b) Knowingly provides money or other compensation to another for a falsified application ~~[to register to vote,]~~ ***; or***

(c) Intentionally fails to submit to the county clerk a completed application,

➥ is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 34. NRS 293C.265 is hereby amended to read as follows:

293C.265 1. Except as otherwise provided in subsection 2 and in NRS 293.2725 and 293.3083, a person who registered ***by mail or computer*** to vote ~~[pursuant to the provisions of NRS 293.5235]~~ shall, for the first city election in which the person votes at which that registration is valid, vote in

person unless he or she has previously voted in the county in which he or she is registered to vote.

2. The provisions of subsection 1 do not apply to a person who:

(a) Is entitled to vote in the manner prescribed in NRS 293C.342 to 293C.352, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293C.317 or 293C.318;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the city clerk.

Sec. 35. NRS 293C.342 is hereby amended to read as follows:

293C.342 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding city general election, or in a precinct in which it appears to the satisfaction of the city clerk ***and Secretary of State*** that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293C.345 to 293C.352, inclusive.

2. Whenever the city clerk has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293C.345 to 293C.352, inclusive.

Sec. 36. NRS 293C.530 is hereby amended to read as follows:

293C.530 1. Before the period for early voting for any election begins, the city clerk shall cause to be mailed to each registered voter in the city a sample ballot for his or her precinct, with a notice informing the voter of the location of his or her polling place. If the location of the polling place has changed since the last election:

(a) The city clerk shall mail a notice of the change to each registered voter in the city not sooner than 10 days before mailing the sample ballots; or

(b) The sample ballot must also include a notice in bold type immediately above the location which states:

NOTICE: THE LOCATION OF YOUR POLLING PLACE
HAS CHANGED SINCE THE LAST ELECTION

2. Except as otherwise provided in subsection ~~[3,]~~ ***4,*** a sample ballot required to be mailed pursuant to this section must:

(a) Be printed in at least 12-point type;

(b) Include the description of the anticipated financial effect and explanation of each citywide measure and advisory question, including arguments for and against the measure or question, as required pursuant to NRS 293.481, 293.482, 295.205 or 295.217; and

(c) Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:

NOTICE: TO RECEIVE A SAMPLE BALLOT IN
LARGE TYPE, CALL (Insert appropriate telephone number)

3. ***The word "Incumbent" must appear on the sample ballot next to the name of the candidate who is the incumbent, if required pursuant to NRS 293.2565.***

4. A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.

~~[4.]~~ ***5.*** The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.

~~[5.]~~ ***6.*** If a person requests a sample ballot in large type, the city clerk shall ensure that all future sample ballots mailed to that person from the city are in large type.

~~[6.]~~ ***7.*** The city clerk shall include in each sample ballot a statement indicating that the city clerk will, upon request of a voter who is elderly or disabled, make reasonable accommodations to allow the voter to vote at his or her polling place and provide reasonable assistance to the voter in casting his or her vote, including, without limitation, providing appropriate materials to assist the voter. In addition, if the city clerk has provided pursuant to subsection 4 of NRS 293C.281 for the placement at centralized voting locations of specially equipped voting devices for use by voters who are elderly or disabled, the city clerk shall include in the sample ballot a statement indicating:

(a) The addresses of such centralized voting locations;

(b) The types of specially equipped voting devices available at such centralized voting locations; and

(c) That a voter who is elderly or disabled may cast his or her ballot at such a centralized voting location rather than at the voter's regularly designated polling place.

~~[7.]~~ ***8.*** The cost of mailing sample ballots for a city election must be borne by the city holding the election.

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 40.5. **Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A foreign national shall not, directly or indirectly, make a contribution or a commitment to make a contribution to:

(a) A candidate;

(b) A committee for political action;

(c) A committee for the recall of a public officer;

(d) A person who is not under the direction or control of a candidate, of a group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure that is not solicited or approved by the candidate or group;

(e) A political party, committee sponsored by a political party or business entity that makes an expenditure on behalf of a candidate or group of candidates;

(f) An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts;

(g) A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as contributions or expenditures by the candidate; or

(h) A nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225.

2. Except as otherwise provided in subsection 3, a candidate, person, group, committee, political party, organization, business entity or nonprofit corporation described in subsection 1 shall not knowingly solicit, accept or receive a contribution or a commitment to make a contribution from a foreign national.

3. For the purposes of subsection 2, if a candidate, person, group, committee, political party, organization, business entity or nonprofit corporation is aware of facts that would lead a reasonable person to inquire whether the source of a contribution is a foreign national, the candidate, person, group, committee, political party, organization, business entity or nonprofit corporation shall be deemed to have not knowingly solicited, accepted or received a contribution in violation of subsection 2 if the candidate, person, group, committee, political party, organization, business entity or nonprofit corporation requests and obtains from the source of the contribution a copy of current and valid United States passport papers. This subsection does not apply to any candidate, person, group, committee, political party, organization, business entity or nonprofit corporation if the candidate, person, group, committee, political party, organization, business entity or nonprofit corporation has actual knowledge that the source of the contribution solicited, accepted or received is a foreign national.

4. If a candidate, person, group, committee, political party, organization, business entity or nonprofit corporation discovers that the candidate, person, group, committee, political party, organization, business entity or nonprofit corporation received a contribution in violation of this section, the candidate, person, group, committee, political party, organization, business entity or nonprofit corporation shall, if at the time of discovery of the violation:

(a) Sufficient money received as contributions is available, return the contribution received in violation of this section not later than 30 days after such discovery.

(b) Except as otherwise provided in paragraph (c), sufficient money received as contributions is not available, return the contribution received in violation of this section as contributions become available for this purpose.

(c) Sufficient money received as contributions is not available and contributions are no longer being solicited or accepted, not be required to return any amount of the contribution received in violation of this section that exceeds the amount of contributions available for this purpose.

5. A violation of any provision of this section is a gross misdemeanor.

6. As used in this section:

(a) "Foreign national" has the meaning ascribed to it in 2 U.S.C. § 441e.

(b) "Knowingly" means that a candidate, person, group, committee, political party, organization, business entity or nonprofit corporation:

(1) Has actual knowledge that the source of the contribution solicited, accepted or received is a foreign national;

(2) Is aware of facts which would lead a reasonable person to conclude that there is a substantial probability that the source of the contribution solicited, accepted or received is a foreign national; or

(3) Is aware of facts which would lead a reasonable person to inquire whether the source of the contribution solicited, accepted or received is a foreign national, but failed to conduct a reasonable inquiry.

Sec. 41. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means any group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

(a) Makes or intends to make contributions to candidates or other persons; or

(b) Makes or intends to make expenditures,

➥ designed to affect the outcome of any primary ~~[,]~~ ***election, primary city election,*** general ~~[or]~~ ***election, general city election,*** special election or question on the ballot.

2. "Committee for political action" does not include:

(a) An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) An individual natural person.

(d) An individual corporation or other business organization who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

(e) A labor union.

(f) A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

(g) A committee for the recall of a public officer.

Sec. 42. NRS 294A.007 is hereby amended to read as follows:

294A.007 1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:

(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:

(1) Candidate;

(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group; ***or***

(3) Committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates ***,*** ~~[~~**;** ~~or~~

~~(4) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot,]~~

➥ without charge to the candidate, person, committee or political party.

(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.

2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services provided to a campaign.

Sec. 43. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make ***or commit to make*** a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds $5,000 for the primary election or primary city election, regardless of the number of candidates for the office, and $5,000 for the general election or general city election, regardless of the number of candidates for the office, during the period:

(a) Beginning from 30 days before the regular session of the Legislature immediately following the last election for the office and ending 30 days before the regular session of the Legislature immediately following the next election for the office, if that office is a state, district, county or township office; or

(b) Beginning from 30 days after the last election for the office and ending 30 days before the next general city election for the office, if that office is a city office.

2. A candidate shall not accept a contribution ***or commitment to make a contribution*** made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 44. (Deleted by amendment.)

Sec. 45. (Deleted by amendment.)

Sec. 46. (Deleted by amendment.)

Sec. 47. (Deleted by amendment.)

Sec. 48. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. ~~[Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who]~~ ***Every committee for political action that*** advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the ~~[person, group of persons or business entity,]~~ ***committee for political action,*** for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $1,000 ~~*[$100]*~~ received during that period and contributions received during the period from a contributor which cumulatively exceed $1,000. ~~*[$100.]*~~ The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury. The provisions of this subsection apply to ~~[the person, group of persons or business entity:]~~ ***a committee for political action:***

(a) Each year in which ~~[:~~

~~(1) An]~~ ***an*** election or city election is held for each question for which the ~~[person, group of persons or business entity]~~ ***committee for political action*** advocates passage or defeat; ~~[or~~

~~(2) A person, group of persons or business entity receives or expends money in excess of $10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election;]~~ and

(b) The year after ~~[each]~~ ***the*** year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of~~

~~$10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. A ~~[person, group of persons or business entity]~~ ***committee for political action*** described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $1,000 ~~*[$100]*~~ received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. ~~*[$100.]*~~ The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $1,000 ~~*[$100]*~~ and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

4. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. ~~[Except as otherwise provided in NRS 294A.283, if]~~ ***If*** a question is on the ballot at a

general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. A ~~[person, group of persons or business entity]~~ ***committee for political action*** described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $1,000 ~~*[$100]*~~ received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. ~~*[$100.]*~~ The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury.

5. Except as otherwise provided in subsection 6, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of a question or group of questions on the ballot at a special election ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall, not later than:

(a) Seven days before the special election, for the period from the date that the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $1,000 ~~*[$100]*~~ received during the period and contributions received during the period from a contributor which cumulatively exceed $1,000. ~~*[$100.]*~~ The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury.

6. Every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of a question or group of questions on the

ballot at a special election to determine whether a public officer will be recalled ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall report each of the contributions received on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. If the ~~[person or group of persons, including a business entity,]~~ ***committee for political action*** is advocating passage or defeat of a group of questions, the reports must be itemized by question or petition.

10. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.

Sec. 49. (Deleted by amendment.)

Sec. 50. NRS 294A.160 is hereby amended to read as follows:

294A.160 1. It is unlawful for a candidate to spend money received as a campaign contribution for the candidate's personal use.

2. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who is elected to that office and received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall:

(a) Return the unspent money to contributors;

(b) Use the money in the candidate's next election or for the payment of other expenses related to public office or his or her campaign, regardless of

whether he or she is a candidate for a different office in the candidate's next election;

(c) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party; ***or***

(3) ~~[A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or~~

~~(4)]~~ Any combination of persons or groups set forth in subparagraphs (1) ~~[,]~~ ***and*** (2) ***;*** ~~[and (3);]~~

(d) Donate the money to any tax-exempt nonprofit entity; ~~[or]~~

(e) ***Donate the money to any governmental entity or fund of this State or a political subdivision of this State*** ~~*[that is authorized to receive donations of money]*~~ ***and may request that the money be used for a specific purpose; or***

(f) Dispose of the money in any combination of the methods provided in paragraphs (a) to ~~[(d),]~~ ***(e),*** inclusive.

3. Every candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election who ***withdraws after filing a declaration of candidacy or an acceptance of candidacy or*** is ~~**[not elected to]**~~ ***defeated for*** that office and ***who*** received contributions that were not spent or committed for expenditure before the primary, general, primary city, general city or special election shall, not later than the 15th day of the second month after the ~~[candidate's defeat:]~~ ***election:***

(a) Return the unspent money to contributors;

(b) Contribute the money to:

(1) The campaigns of other candidates for public office or for the payment of debts related to their campaigns;

(2) A political party; ***or***

(3) ~~[A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot;]~~ Any combination of persons or groups set forth in subparagraphs (1) ~~[,]~~ ***and*** (2) ***;*** ~~[and (3);]~~

(c) Donate the money to any tax-exempt nonprofit entity; ~~[or]~~

(d) ***Donate the money to any governmental entity or fund of this State or a political subdivision of this State*** ~~*[that is authorized to receive donations of money]*~~ ***and may request that the money be used for a specific purpose; or***

(e) Dispose of the money in any combination of the methods provided in paragraphs (a) ~~[, (b) and (c).]~~ ***to (d), inclusive.***

4. Every candidate for a state, district, county, city or township office who ***withdraws after filing a declaration of candidacy or an acceptance of candidacy or*** is defeated ***for that office*** at a primary or primary city election and received a contribution from a person in excess of $5,000 shall, not later than the 15th day of the second month after the ~~[candidate's defeat,]~~ ***election,*** return any money in excess of $5,000 to the contributor.

5. ~~[Every]~~ ***Except as otherwise provided in subsection 6, every*** public officer who:

(a) Holds a state, district, county, city or township office;

(b) Does not run for reelection ***to that office*** and is not a candidate for any other office; and

(c) Has contributions that are not spent or committed for expenditure remaining from a previous election,

➥ shall, not later than the 15th day of the second month after the expiration of the public officer's term of office, dispose of those contributions in the manner provided in subsection 3.

6. ***A public officer who:***

(a) Holds a state, district, county, city or township office;

(b) Does not run for reelection to that office and is a candidate for any other office; and

(c) Has contributions that are not spent or committed for expenditure remaining from a previous election,

➥ ***may use the unspent campaign contributions in a future election. Such a public officer is subject to the reporting requirements set forth in NRS 294A.120, 294A.125, 294A.128, 294A.200, 294A.360 and 294A.362 for as long as the public officer is a candidate for any office.***

7. In addition to the methods for disposing the unspent money set forth in subsections 2, 3 ~~[and 4,]~~ ***, 4 and 6,*** a Legislator may donate not more than $500 of that money to the Nevada Silver Haired Legislative Forum created pursuant to NRS 427A.320.

~~[7.]~~ ***8.*** Any contributions received before a candidate for a state, district, county, city or township office at a primary, general, primary city, general city or special election dies that were not spent or committed for expenditure before the death of the candidate must be disposed of in the manner provided in subsection 3.

~~[8.]~~ ***9.*** The court shall, in addition to any penalty which may be imposed pursuant to NRS 294A.420, order the candidate or public officer to dispose of any remaining contributions in the manner provided in this section.

~~[9.]~~ ***10.*** As used in this section, "contributions" include any interest and other income earned thereon.

Sec. 51. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 incurred and each amount in excess of $100 disposed of pursuant to NRS 294A.160 ***or subsection 4 of NRS 294A.286*** during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or 294A.286.***

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 incurred during the period on the form designed and provided by the Secretary of State pursuant ***to*** NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from the candidate's nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 incurred during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 incurred on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after receiving the report.

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. ~~[Except as otherwise provided in NRS 294A.283, every person or group of persons organized formally or informally, including a business entity, who]~~ ***Every committee for political action that*** advocates the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall, not later than January 15 of each year that the provisions of this subsection apply to the ~~[person or group of persons,]~~ ***committee for political action,*** for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 ~~*[$100]*~~ on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty

of perjury. The provisions of this subsection apply to the ~~[person, group of persons or business entity:]~~ ***committee for political action:***

(a) Each year in which ~~[:~~

~~(1) An]~~ ***an*** election or city election is held for a question for which the ~~[person, group of persons or business entity]~~ ***committee for political action*** advocates passage or defeat; ~~[or~~

~~(2) A person, group of persons or business entity receives or expends money in excess of $10,000 to advocate the passage or defeat of a question or group of questions on the ballot at a primary election, primary city election, general election or general city election;]~~ and

(b) The year after ~~[each]~~ ***the*** year described in paragraph (a).

2. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after January 1 and before the July 1 immediately following that January 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. If a question is on the ballot at a general election or general city election held on or after January 1 and before the July 1 immediately following that January 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. A ~~[person, group of persons or business entity]~~ ***committee for political action*** described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election, for the period from 11 days before the general election or general city election through the June 30 immediately preceding that July 15,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 ~~*[$100]*~~ on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by ~~[the person~~

~~or~~] a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury.

3. If a question is on the ballot at a primary election or primary city election and the general election or general city election immediately following that primary election or primary city election is held on or after July 1 and before the January 1 immediately following that July 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. ~~[Except as otherwise provided in NRS 294A.283, if]~~ ***If*** a question is on the ballot at a general election or general city election held on or after July 1 and before the January 1 immediately following that July 1, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of the question or a group of questions that includes the question ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall comply with the requirements of this subsection. A ~~[person, group of persons or business entity]~~ ***committee for political action*** described in this subsection shall, not later than:

(a) Seven days before the primary election or primary city election, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 ~~*[$100]*~~ on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury.

4. Except as otherwise provided in subsection 5, every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of a question or group of questions on the ballot at a special election shall, not later than:

(a) Seven days before the special election, for the period from the date the question qualified for the ballot through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 ~~*[$100]*~~ on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury.

5. Every ~~[person or group of persons organized formally or informally, including a business entity, who]~~ ***committee for political action that*** advocates the passage or defeat of a question or group of questions on the ballot at a special election to determine whether a public officer will be recalled ~~[and who receives or expends money in an amount in excess of $10,000 to advocate the passage or defeat of such question or group of questions]~~ shall list each expenditure made during the period on behalf of or against the question, the group of questions or a question in the group of questions on the ballot in excess of $1,000 ~~*[$100]*~~ on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by ~~[the person or]~~ a representative of the ~~[group or business entity]~~ ***committee for political action*** under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports required pursuant to this section must be filed with:

(a) If the question is submitted to the voters of one county, the county clerk of that county;

(b) If the question is submitted to the voters of one city, the city clerk of that city; or

(c) If the question is submitted to the voters of more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of questions, the reports must be itemized by question or petition. A person may mail or transmit the report to the appropriate filing officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the filing officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the filing officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.

Sec. 55. (Deleted by amendment.)

Sec. 56. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by the Secretary of State.

2. The form must require:

(a) The name of the committee;

(b) The purpose for which it was organized;

(c) The names, addresses and telephone numbers of its officers;

(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;

(e) The name, address and telephone number of its registered agent; and

(f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State ~~[an]~~ ***:***

(a) An amended form for registration within 30 days after any change in the information contained in the form for registration.

(b) A form for registration on or before January 15 of each year, regardless of whether there is a change in the information contained in the most recent form for registration filed by the committee for political action with the Secretary of State.

4. The Secretary of State shall include on the Secretary of State's Internet website the information required pursuant to subsection 2.

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. Not later than the 15th day of the second month after the conclusion of all civil, criminal or administrative claims or proceedings for which a candidate or public officer established a legal defense fund, the candidate or public officer shall:

(a) Return the unspent money to contributors;

(b) Donate the money to any tax-exempt nonprofit entity; or

(c) Dispose of the money in any combination of the methods provided in paragraphs (a) and (b).

Sec. 60. NRS 294A.287 is hereby amended to read as follows:

294A.287 1. A person shall not make ***or commit to make*** a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds $10,000 during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.

2. A candidate or public officer shall not accept a contribution ***or commitment to make a contribution*** to his or her legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 61. NRS 294A.300 is hereby amended to read as follows:

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. ***A person shall not make or commit to make a contribution or commitment prohibited by subsection 1.***

3. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for

services provided as a part of his or her regular employment or is additional income to which he or she is entitled.

~~[3.]~~ ***4.*** As used in this section, "political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.

Sec. 62. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate ~~[,]~~ or a person, party ~~[, committee or business entity required to report expenditures pursuant to NRS 294A.210,]~~ ***or committee for political action,***

➥ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person , party ~~[, committee or business entity]~~ ***or committee for political action*** providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

➥ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 63. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a

candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election;

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election; and

(c) July 15 of the year of the general city election for that office, for the period from 11 days before the general city election through the June 30 of that year.

3. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he or she is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election; and

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election.

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the special election, for the period from the candidate's nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 6 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Sec. 64. (Deleted by amendment.)

Sec. 65. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210, 294A.220 ~~[,]~~ ***and*** 294A.280 ~~[and 294A.283]~~ must consist of a list of each expenditure in excess of $100 ~~[or $1,000, as is appropriate,]~~ that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each

expense in excess of $100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

(a) Office expenses;

(b) Expenses related to volunteers;

(c) Expenses related to travel;

(d) Expenses related to advertising;

(e) Expenses related to paid staff;

(f) Expenses related to consultants;

(g) Expenses related to polling;

(h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

Sec. 66. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party ~~[, group]~~ and business entity that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party ~~[, group]~~ or business entity that is required to use the form.

Sec. 67. (Deleted by amendment.)

Sec. 68. NRS 294A.382 is hereby amended to read as follows:

294A.382 The Secretary of State shall not request or require a candidate, person, ~~[group of persons,]~~ committee, political party or business entity to

list each of the expenditures or campaign expenses of $100 or less on a form designed and provided pursuant to NRS 294A.373.

Sec. 69. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;
2. An acceptance of candidacy;
3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377;
4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or
5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 ~~[, 294A.283]~~ or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 ~~[, 294A.283]~~ or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 70. (Deleted by amendment.)

Sec. 71. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 ~~[, 294A.283]~~ and 294A.286, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.
2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than the person.

(b) Group of persons or business entity advocating the election or defeat of a candidate.

(c) Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates.

6. ~~[The contributions in excess of $1,000 made to and the expenditures exceeding $1,000 made by a:~~

~~(a) Person or group of persons organized formally or informally, including a business entity who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of $10,000 for such advocacy, except as otherwise provided in paragraph (b).~~

~~(b) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy.~~

~~7.]~~ The total contributions received by and expenditures made from a legal defense fund.

Sec. 72. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person, ***committee*** or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.227, 294A.230, ***294A.250,*** 294A.270, 294A.280, ~~[294A.283,]~~ 294A.286 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person ***, committee*** or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person ***, committee*** or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.227, 294A.230, *294A.250,* 294A.270, 294A.280, ~~[294A.283,]~~ 294A.286, 294A.300, 294A.310 or 294A.360 ***or section 40.5 of***

this act is subject to a civil penalty of not more than $5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person ***, committee*** or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his or her office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 73. NRS 306.040 is hereby amended to read as follows:

306.040 1. Upon determining that the number of signatures on a petition to recall is sufficient pursuant to NRS 293.1276 to 293.1279, inclusive, the Secretary of State shall notify the county clerk, the officer with whom the petition is to be filed pursuant to subsection 4 of NRS 306.015 and the public officer who is the subject of the petition.

2. After the verification of signatures is complete, but not later than the date a complaint is filed pursuant to subsection 5 or the date the call for a special election is issued, whichever is earlier, a person who signs a petition to recall may request the Secretary of State to strike the person's name from the petition. If the person demonstrates good cause therefor and the number of such requests received by the Secretary of State could affect the sufficiency of the petition, the Secretary of State shall strike the name of the person from the petition.

3. Not sooner than 10 days nor more than 20 days after the Secretary of State completes the notification required by subsection 1, if a complaint is

not filed pursuant to subsection 5, the officer with whom the petition is filed shall issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall the public officer.

4. The call for a special election pursuant to subsection 3 or 6 must include, without limitation:

(a) The last day on which a person may register to vote to qualify to vote in the special election; ~~[~~and~~]~~

(b) The last day on which a petition to nominate other candidates for the office may be filed ~~[.]~~ ***; and***

(c) Whether any person is entitled to vote in the special election pursuant to NRS 293.343 to 293.355, inclusive.

5. The legal sufficiency of the petition may be challenged by filing a complaint in district court not later than 5 days, Saturdays, Sundays and holidays excluded, after the Secretary of State completes the notification required by subsection 1. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

6. Upon the conclusion of the hearing, if the court determines that the petition is sufficient, it shall order the officer with whom the petition is filed to issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall the public officer. If the court determines that the petition is not sufficient, it shall order the officer with whom the petition is filed to cease any further proceedings regarding the petition.

Sec. 74. (Deleted by amendment.)

Sec. 75. (Deleted by amendment.)

Sec. 76. (Deleted by amendment.)

Sec. 77. (Deleted by amendment.)

Sec. 78. (Deleted by amendment.)

Sec. 79. (Deleted by amendment.)

Sec. 80. (Deleted by amendment.)

Sec. 81. (Deleted by amendment.)

Sec. 82. (Deleted by amendment.)

Sec. 83. (Deleted by amendment.)

Sec. 84. NRS 294A.281, 294A.282, 294A.283 and 294A.284 are hereby repealed.

Sec. 85. 1. This section, sections 1 to 37, inclusive, **40.5,** 41, 42, 43, 48, 50, 51, 54, 56, 59 to 63, inclusive, 65, 66, 68, 69, 71, 72, 73 and 84 of this act become effective on July 1, 2011.

2. Sections 38, 39, 40, 44 to 47, inclusive, 49, 52, 53, 55, 57, 58, 64, 67, 70 and 74 to 83, inclusive, of this act become effective on January 16, 2013.

LEADLINES OF REPEALED SECTIONS

294A.281 Registration.

294A.282 Registered agent.

294A.283 Reporting of contributions and expenditures; period covered; deadline; form; filing.

294A.284 Reporting of certain information concerning compensation of persons to circulate petitions.

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. 567 makes three major changes. The amendment prohibits a foreign national, as defined in the U.S. Code, from contributing directly or indirectly to a person, committee, party, or organization involved in campaigns and elections. These same individuals or entities are prohibited from knowingly receiving contributions from foreign nations. Under certain circumstances, contributions from foreign nationals must be returned. A violation is a gross misdemeanor.

The amendment also deletes the provision requiring that a governmental entity or fund be authorized to receive donations of money in order to receive unspent campaign contributions from candidates for public office.

The amendment eliminates the $10,000 threshold for reporting of contributions or expenditures by ballot advocates or ballot advocacy groups. The amendment requires, instead, that these persons or groups report any contributions or expenditures in excess of $1,000 during any reporting period.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 110.

Bill read second time and ordered to third reading.

Assembly Bill No. 115.

Bill read second time and ordered to third reading.

Assembly Bill No. 145.

Bill read second time and ordered to third reading.

Assembly Bill No. 146.

Bill read second time and ordered to third reading.

Assembly Bill No. 182.

Bill read second time and ordered to third reading.

Assembly Bill No. 200.

Bill read second time and ordered to third reading.

Assembly Bill No. 237.

Bill read second time and ordered to third reading.

Assembly Bill No. 280.

Bill read second time and ordered to third reading.

Assembly Bill No. 395.
Bill read second time and ordered to third reading.

Assembly Bill No. 420.
Bill read second time and ordered to third reading.

Assembly Bill No. 422.
Bill read second time and ordered to third reading.

Assembly Bill No. 454.
Bill read second time and ordered to third reading.

Assembly Bill No. 472.
Bill read second time and ordered to third reading.

Assembly Bill No. 544.
Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 1.
Resolution read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bills Nos. 43, 75, 113, 244, 483, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 130, 218, 248, 406; Assembly Bills Nos. 107, 161, 244, 269, 271, 284, 321, 352, 355, 408, 429, 441, 538, 556; Assembly Concurrent Resolution No. 3.

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 Caroline Byerman, Amanda Byerman and Will Byerman.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Jill Hardy.

Senator Wiener moved that the Senate adjourn until Monday, May 16, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 11:56 a.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE NINETY-NINTH DAY

CARSON CITY (Monday), May 16, 2011

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

President Pro Tempore Schneider presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Christopher Amen.

Lord God, Heavenly Father, You have given us this good land as our heritage. Grant that we remember Your generosity to us and, by Your mercy and grace, bless our leaders and our citizens, that we may serve in the vocations You have called us in order to serve You.

Bless our land with honest industry, trustful education, and an honorable way of life, trusting not in our reason or strength but in Your goodness and mercy towards us, through Jesus Christ, Your Son our Lord, who lives and reigns with You and the Holy Spirit, one God, now and forever.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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.

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 11:22 a.m.

SENATE IN SESSION

At 11:23 a.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which were referred Assembly Bills Nos. 113, 233, 551, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Education, to which were referred Assembly Bills Nos. 39, 40, 290, 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 Senate Bill No. 442, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 196, 249, 282, 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 were referred Assembly Bills Nos. 306, 368, 451, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, to which was referred Senate Concurrent Resolution No. 1, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

May 14, 2011

PRESIDENT BRIAN KROLICKI
NEVADA STATE SENATE
401 South Carson Street, Carson City, Nevada 89701

DEAR SENATOR HORSFORD:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Senate Bill 497, which is entitled:

> "AN ACT relating to elections; revising the legislative districts from which the members of the Senate and Assembly are elected; revising the districts from which Representatives in the Congress of the United States are elected; and providing other matters properly relating thereto."

This bill relates to the revision of legislative and Congressional districts in our state. In my State of the State address, I said that legislative and Congressional districts should be drawn for a fair representation of all constituents—and that they be consistent with the law. This bill fails to meet both standards.

In 1965, Congress passed the Voting Rights Act ("the Act"). The Act prohibits states from using the redistricting process to dilute the voting strength of minority communities. In doing so, the Act ensures, consistent with my call at the State of the State, that lines of representation be drawn to afford minority communities equal opportunity to elect representatives of their choice. The central mechanisms by which the Act ensures such outcomes are simple: no fracturing and no packing of such communities.

The redistricting plan reflected in this bill does not comply with the Act. In the last ten years, the Hispanic community in our state has grown significantly. Indeed, recent Census figures reveal that one in four Nevadans are of Hispanic descent. The law—and common sense-requires that we recognize this fact and afford Hispanics an equal opportunity to elect representatives of their choosing.

The plan in this bill, however, does not do so. Of the four Congressional seats it establishes, not one contains a Hispanic majority—though such a district can clearly and simply be drawn, consistent with traditional redistricting principles. The representation of the Hispanic population would be no more fair in the Senate and Assembly plans, where most Hispanics are crowded into as few districts as possible and where those that are not constitute overwhelming minorities in the districts they are in. With Hispanics accounting for 46% of the total population growth in our state over the last ten years, this transparent effort to avoid creating even one additional district where this community would be likely to elect its candidate of choice is simply not acceptable.

This bill's failure to adhere to the letter and spirit of the Act is the most visible evidence of its structural defects. The plan, however, violates more than just the Act. At its core, this bill creates districts that were drawn exclusively for political gain. This plan ensures partisan opportunity

rather than the fair representation of all Nevadans. Partisan gerrymandering is not legal, equitable, or acceptable. Therefore, because this bill fails to comply with the requirements of federal law and because it is fundamentally unfair, I veto it and return it to you without my approval.

Sincerely,
BRIAN SANDOVAL
Governor of Nevada

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Rhoads, McGinness, Breeden, Brower, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, Kihuen, Lee, Leslie, Manendo, Parks, Roberson, Schneider, Settelmeyer, Wiener; Assemblymen Hickey, 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, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, Mastroluca, McArthur, Munford, Neal, Oceguera, Ohrenschall, Pierce, Segerblom, Sherwood, Smith, Stewart and Woodbury:

Senate Concurrent Resolution No. 10—Memorializing former state Senator Raymond C. Shaffer.

WHEREAS, The members of the Nevada Legislature are mourning the loss of an exemplary citizen, honorable war veteran and one of their esteemed colleagues, former State Senator Raymond C. Shaffer; and

WHEREAS, Born in 1932 in Wilkes-Barre, Pennsylvania, Ray attended Youngstown College in Ohio before enlisting in the United States Marine Corps; and

WHEREAS, He nobly served his country as a sergeant in the Korean War and was a life member of the Disabled American Veterans; and

WHEREAS, Senator Shaffer worked for the public good as a civilian, in the position of the Building Director of the City of North Las Vegas, until his retirement in 1989; and

WHEREAS, In addition, he was deeply committed to issues he found to be of utmost importance, serving on the Western States Water Policy Committee and as a member of the North Las Vegas Township Democratic Club; and

WHEREAS, This exceptional Nevadan also engaged in volunteering for the betterment of the lives of his neighbors as an active member of the North Las Vegas Host Lions Club, and, in addition to dutifully performing the duties of the President of the Club, was recognized as Lion of the Year in 1996; and

WHEREAS, Senator Shaffer began his impressive career as a State Legislator in 1984 and worked tirelessly for 20 years to pass legislation relating to education, renewable energy, water issues, veterans' rights and senior citizens' issues; and

WHEREAS, This revered statesman's experience and wisdom were invaluable to the numerous committees he served on, including the Legislative Commission, and to his role as Senate Majority Whip in the 1991 Legislative Session; and

WHEREAS, In his leisure time, Ray enjoyed spending time in Coronado, California, and was a member of the Coronado Yacht Club; and

WHEREAS, Senator Shaffer is survived by his wife of 32 years, Sharon, who was active with him in his political career and was by his side throughout his long battle with Lewy Body Dementia, by his children Thomas J. Shaffer, Robin King, Cindy Sipple, James R. Shaffer and Diane Shaffer, by his brothers Frederick Shaffer, Robert Shaffer, Lawrence Shaffer, William Shaffer and Jerry Shaffer, by his sisters Mary Cerami and Ruth Hughes and also by his eight grandchildren and several great-grandchildren; and

WHEREAS, He will be remembered for his admirable career in public service, his status as an honorable veteran and his wonderful sense of humor; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Session of the Nevada Legislature hereby extend their sincerest condolences to Senator Shaffer's family and friends; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Raymond Shaffer's wife Sharon.

Senator Rhoads moved the adoption of the resolution.

Remarks by Senators Rhoads, Lee, Wiener and McGinness.

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

SENATOR RHOADS:

The resolution before us today covers most of the basics, but it barely scratches the surface about a truly fine man and State Senator, Ray Shaffer. Ray was first elected to the Senate in 1984, and served in this body through 2004. During most of Ray's 20 years in the Senate he was a Democrat. He switched over to the Republican Party for both the 2001 and 2003 Legislative Sessions. But that really did not make a difference in Ray Shaffer, the person and the Senator. He was always a gentleman. He did his homework on the bills before us. He was responsive to his constituents. He also brought us many excellent proposals for new legislation.

I might also add that Ray's wife, Sharron, who is with me today, was always here in the Legislative Building assisting Ray. She also cooked up some of the best lunches ever for us in the Senate Lounge, which really helped us make it through many long sessions.

Senator Ray Shaffer was the primary sponsor of many good pieces of legislation during his years of service. He sponsored a number of bills on topics such as: veterans, land surveyors, licensing of dentists, telecommunications, water resources, building codes, alternative fuels, motor vehicles, funeral homes and industrial insurance.

To better understand what an excellent Legislator Ray was, let me briefly tell you about just four of the important bills he sponsored. Each of these passed and was later signed into law.

In 1987, Ray was the primary sponsor of Senate Bill No. 88. That measure started the system we have today that allows the sentencing of certain violators to residential confinement instead of sending them to jail or prison. House arrest saves the State money and gives violators a better chance to straighten up.

Also in 1987, Ray introduced and gained passage of Senate Bill No. 494. That measure set up a program of annual population estimates for the State and its counties, cities and towns. These estimates are certified by the Governor, and then are used to fairly apportion tax proceeds around the State.

In 1991, Ray sponsored Senate Bill No. 547, which established a pilot program that allowed the DMV to provide for the renewal of motor vehicle registrations at authorized stations. That program continues today and is used by many Nevadans when they go to an authorized inspection station.

Ray was the primary sponsor of Senate Bill No. 119 in 2001, which set up a program requiring the Nevada Taxicab Authority in Clark County to assist the elderly and disabled. Today, the Senior Ride Program allows eligible citizens to buy coupon books for travel by taxi at half price.

SENATOR LEE:

It is my distinct honor to say a few kind words about Senator Ray Shaffer. After arriving here in the Senate for the 2005 73rd Session, I realized what very big shoes I had to fill. Ray served the State and his constituents with great skill, compassion and foresight for 20 years.

Senator Shaffer was an expert in commerce and labor issues. He was a member of the Senate Standing Committee on Commerce and Labor during each of the ten regular sessions he served. He also served on the Committee on Natural Resources for seven sessions and the Committee on Transportation for five sessions. I understand that he did a masterful job when he chaired the Senate Committee on Legislative Operations and Operations in 1991 and the Senate Committee on Transportation in 1993.

Ray was particularly busy during the interim period between sessions as a member of many statutory and interim study committees. Because of his broad knowledge in many different subjects, he was appointed to committees on topics as diverse as: the Clark County Flood Control District; the Funding of Cities and Counties; Workers' Compensation; High-Level Radioactive Waste; Health Care; Mobile Home Parks; and Taxation. Because of his expertise and levelheaded and fair approach in committee matters, he was often selected to chair interim committees. Those committees he ably chaired include the studies of the Lake Tahoe Regional Planning Compact; the Southern Nevada Veterans' Cemetery, and the Legislative Committee on Industrial Insurance.

One of the biggest legacies Ray Shaffer left was his primary sponsorship of many important pieces of legislation, including: creation of the Nevada Cultural Fund; updating the building, plumbing, and electrical codes used in Nevada; various education topics; renewable energy programs; water issues; and matters pertaining to veterans and senior citizens.

I understand that Ray also played a pivotal role some 20 years ago in helping to secure a right-of-way through the town of Beatty for the fiber optics cable needed to provide our first teleconferencing link between Clark County and the Legislative Building in Carson City.

Senator Shaffer was always known as the Senator from North Las Vegas and always available to those in City Hall and his district, who needed his help in the Legislature.

In conclusion, Senator Ray Shaffer was both an outstanding statesman and a true gentleman. I hope I am emulating his wonderful example.

SENATOR WIENER:

I sat behind Senator Shaffer. I watched with great respect how Senator Shaffer did his work here. Since I was new to these Chambers, he was a teacher by example. Though soft spoken, he always showed up to do the work. He listened, paid close attention, and was thoughtful about the process and about the people who participated in it. I would like to honor Senator Shaffer and his family. It is nice to see his wife, Sharon, as well.

SENATOR MCGINNESS:

Ray was a funny guy, but you had to be paying attention. He was not loud and boisterous; he would sneak the zingers in on you. You had to pay attention all of the time.

Thank you, Mr. President.

Resolution adopted.

Senator Rhoads moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 10 be immediately transmitted to the Assembly.

Motion carried unanimously.

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

Senate in recess at 11:53 a.m.

SENATE IN SESSION

At 12:08 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 470.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 578.

"SUMMARY—Makes a supplemental appropriation to the Department of Corrections for an unanticipated shortfall in Fiscal Year 2010-2011 for increased outside medical costs**__.** ~~[and payment of a stale claim.]~~ (BDR S-1227)"

"AN ACT making a supplemental appropriation to the Department of Corrections for an unanticipated shortfall in Fiscal Year 2010-2011 for increased outside medical costs **;** ~~[and payment of a related stale claim;]~~ and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of ~~[$2,514,081]~~ **$1,768,407** for increased outside medical costs**__.** ~~[and payment of a stale claim for Fiscal Year 2009-2010.]~~ This appropriation is supplemental to that made in section 23 of chapter 388, Statutes of Nevada 2009, at page 2111.

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.

Senate Bill No. 470, as amended, provides a supplemental appropriation in the amount of $1,768,407 to the Department of Corrections to cover shortfalls due to increased outside medical costs.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 474.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 579.

"SUMMARY—Makes a supplemental appropriation to the Department of Corrections to offset a reduction in funds for the State Criminal Alien Assistance Program. (BDR S-1229)"

"AN ACT making a supplemental appropriation to the Department of Corrections to offset a reduction in funds for the State Criminal Alien Assistance Program; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of ~~[$1,420,522]~~ **$996,105** to offset a reduction in funds for the State Criminal Alien Assistance Program. This appropriation is supplemental to that made by section 23 of chapter 388, Statutes of Nevada 2009, at page 2111.

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.

Senate Bill No. 474, as amended, provides a supplemental appropriation in the amount of $996,105 to the Department of Corrections. The supplemental appropriation will be used to fund a shortfall in revenue caused by a decrease in State Criminal Alien Assistance Program (SCAAP) grant funds awarded in Fiscal Year 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 478.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 580.

"SUMMARY—Makes a supplemental appropriation to the Department of Motor Vehicles for an unanticipated shortfall in kiosk vendor payments. (BDR S-1235)"

"AN ACT making a supplemental appropriation to the Department of Motor Vehicles for an unanticipated shortfall in kiosk vendor payments; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State Highway Fund to the Department of Motor Vehicles, Director's office, the sum of ~~[$630,036]~~ **$583,614** for an unanticipated shortfall in kiosk vendor payments. This appropriation is supplemental to that made by section 32 of chapter 388, Statutes of Nevada 2009, at page 2113.

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.

Senate Bill No. 478 as amended provides a supplemental appropriation for the Department of Motor Vehicles, for an unanticipated shortfall in kiosk vendor payments for the amount of $583,614.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 479.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 581.

"SUMMARY—Makes a supplemental appropriation to the Department of Motor Vehicles for an unanticipated shortfall in the merchant services fees associated with electronic payments. (BDR S-1236)"

"AN ACT making a supplemental appropriation to the Department of Motor Vehicles for an unanticipated shortfall in the merchant services fees associated with electronic payments; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State Highway Fund to the Department of Motor Vehicles, Administrative Services Division, the sum of ~~[$948,453]~~ **$878,997** for an unanticipated shortfall in the merchant services fees associated with electronic payments. This appropriation is supplemental to that made by section 32 of chapter 388, Statutes of Nevada 2009, at page 2113.

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.

Senate Bill No. 479, as amended, provides a supplemental appropriation from the State Highway Fund in the amount of $878,997 to the Administrative Services Division for an unanticipated shortfall in the merchant services fees associated with electronic payments.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 482.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 582.

"SUMMARY—Makes a supplemental appropriation to the Department of Corrections for an unanticipated shortfall in revenue at the Casa Grande Transitional Housing Center for Fiscal Year 2010-2011. (BDR S-1232)"

"AN ACT making a supplemental appropriation to the Department of Corrections for an unanticipated shortfall in revenue at the Casa Grande Transitional Housing Center; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Corrections the sum of ~~[$897,312]~~ **$562,626** for an unanticipated shortfall in revenue at the Casa Grande Transitional Housing Center. This appropriation is supplemental to that made by section 23 of chapter 388, Statutes of Nevada 2009, at page 2111.

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.

Senate Bill No. 482, as amended, provides for supplemental appropriations of $562,626 to the Department of Corrections for the unanticipated shortfall in the revenue at the Casa Grande Transitional Housing Center.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 23.

Bill read second time and ordered to third reading.

Assembly Bill No. 130.

Bill read second time and ordered to third reading.

Assembly Bill No. 141.

Bill read second time and ordered to third reading.

Assembly Bill No. 396.

Bill read second time and ordered to third reading.

Assembly Bill No. 480.

Bill read second time and ordered to third reading.

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

Senate in recess at 12:24 p.m.

SENATE IN SESSION

At 7:04 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE GOVERNOR

STATE OF NEVADA
EXECUTIVE CHAMBER
CARSON CITY, NEVADA 89701

May 16, 2011

THE HONORABLE JOHN OCEGUERA, *Speaker of the Assembly,* Legislative Building 401 South Carson Street, Carson City, Nevada. 89701

RE: Assembly Bill No. 568 of the 76th Legislative Session

DEAR SPEAKER OCEGUERA:

I am herewith forwarding to you, for filing within the constitutional time limit and without my approval, Assembly Bill No. 568, which is entitled:

> "AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2011-2013 biennium; apportioning the State Distributive School Account in the State General Fund for the 2011-2013 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; temporarily diverting the money from the Sate Supplemental School Support Fund to the State Distributive School Account for use in funding operating costs and other expenditures of school districts; and proving other matter properly relating thereto."

I veto and return this bill because it increases state spending by nearly $660 million above the amount proposed in the Executive Budget, as amended. "Were this bill to be enacted into law, insufficient revenue would be available for the Legislature to meet its obligation to prepare a balanced budget encompassing all areas of state responsibility.

Approval of Assembly Bill No. 568, without corresponding reductions in spending in other parts of the Executive Budget, would violate the requirement of balanced relations between proposed expenditures and anticipated revenues. This bill therefore represents a circuitous attempt to secure a tax increase despite the fact I have been clear since the commencement of the Legislative Session that Nevada's struggling economy must be allowed to fully recover.

Within this context, I have provided the Legislature with a spending plan for K- 12 education, as well as a comprehensive legislative package to ensure educator accountability, parental choice, and other much-needed system reforms. I am committed to improving our education system; I am equally committed to doing so in a fiscally prudent manner. I understand these decisions are difficult, but as leaders we must make them. While all of us would like to have more money to spend, we must also accept that education funding cannot occur in a vacuum. Current economic realities require that we spend only the money we have, while allowing for the additional funding of education as the economy continues to improve.

Indeed, only two weeks ago, the report of Nevada's Economic Forum allowed me to submit a budget amendment that added some $240 million for the support of K-12 education just four months after the original Executive Budget was presented to the Legislature. I propose that "triggers" be adopted so additional funding can continue to go straight to the support of the classroom as revenue becomes available through economic recovery.

I am compelled to protect the integrity of my office and the Nevada Constitution. Assembly Bill No. 568 was processed in a matter of hours, with the clear intention of casting opponents as somehow "anti-education" while at the same time forcing a tax increase. Such a manipulation of the process undermines the Legislature's obligations to the people of this state.

Much work remains to be done, with only three weeks in which to do it. The people of Nevada have stated clearly their expectation for the Legislature to complete its work and adjourn sine die within 120 days. (Nev. Const. art. 4, § 2.) That deadline is fast approaching, and we have precious little time remaining to conduct the people's business in a responsible and realistic manner.

Sincere regards,
BRIAN SANDOVAL
Governor of Nevada

GENERAL FILE AND THIRD READING

Senate Bill No. 43.

Bill read third time.

Remarks by Senators Kieckhefer and Hardy.

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

SENATOR KIECKHEFER:

Thank you, Mr. President. This is a bill that is in relation to the federal stimulus bill rather than the Health Care Reform Act. It creates the regulatory structure for the State to manage electronic health records which is something that will be driven by the private market.

SENATOR HARDY:

Senate Bill No. 43 requires the Department of Health and Human Services to establish a statewide health information exchange system. I am a physician licensed to practice medicine in this State who would be affected by this system and I serve as an unpaid member of the Board of Directors of HealthInsight, which is a nonprofit entity currently involved in the development of a health information exchange system that intends to seek to be the governing entity should such a system be established in Nevada.

I have consulted with legal counsel and though I do not legally have a conflict pursuant to the provisions of Senate Standing Rule No. 23 because I do not have a pecuniary interest in this bill

and will not be affected any differently than any other physician in Nevada, I will be abstaining on this vote to avoid any appearance of impropriety.

Roll call on Senate Bill No. 43:
YEAS—20.
NAYS—None.
NOT VOTING—Hardy.

Senate Bill No. 43 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 75.

Bill read third time.

The following amendment was proposed by Senator Cegavske:

Amendment No. 575.

"SUMMARY—Establishes a program to provide private equity funding to businesses engaged in certain industries in this State. (BDR 31-523)"

"AN ACT relating to public financial administration; establishing a program to provide private equity funding to businesses engaged in certain industries in this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State is prohibited from donating or loaning state money or credit, or subscribing to or being interested in the stock of any company, association or corporation, except a corporation that is formed for educational or charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State Treasurer to negotiate for the investment of money in the State Permanent School Fund. However, the State Treasurer is prohibited from making certain investments unless he or she obtains a judicial determination that such an investment does not violate the provisions of Section 9 of Article 8 of the Nevada Constitution. (NRS 355.060)

~~[Section 5 of this bill requires the State Treasurer to form an independent corporation for public benefit, the purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses that engage in certain industries.]~~ **Sections 6 and 8** of this bill ~~[authorize]~~ **require** the State Treasurer ~~[to transfer from]~~ **, at the direction of the Commission on Economic Development, to invest an amount not to exceed $50 million of the money in** the State Permanent School Fund to ~~[this corporation an amount not to exceed $50 million, if the State Treasurer obtains a judicial determination that such a use of that money will not violate Article 8, Section 9 of the Nevada Constitution. Section 6 requires this transfer to be made pursuant to an agreement which requires 70 percent of the]~~ **provide** private equity funding ~~[provided by the corporation to be provided]~~ to businesses engaged in certain industries that are located or seeking to locate in Nevada.

WHEREAS, NRS 355.060 authorizes the State Treasurer to invest money in the State Permanent School Fund in certain investments; and

WHEREAS, The State Treasurer seeks to invest money in the State Permanent School Fund in accordance with sound and prudent investment principles which include a primary emphasis on the preservation of assets followed by an emphasis on return; and

WHEREAS, A greater return on Permanent School Fund money invested by the State Treasurer will have a direct beneficial impact on Nevada schools and students; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would assist the State of Nevada in diversifying the economic base of the State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would attract new businesses and investment to the State of Nevada, resulting in high-paying, quality jobs; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would create greater exposure for institutions of the Nevada System of Higher Education through expanded projects designed around health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology and other industries critical to economic development in this State would encourage innovation and cooperation among institutions of the Nevada System of Higher Education and private sector businesses located in the State of Nevada; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences, cyber security, homeland security and defense, alternative energy, advanced materials and manufacturing, information technology other industries critical to economic development in this State would increase the ability of institutions of the Nevada System of Higher Education, businesses in the State of Nevada and nonprofit corporations and organizations in the State of Nevada to compete more successfully for federal and private research and development funding; and

WHEREAS, The availability of private equity funding for investment in health care and life sciences research and development would provide for advanced medical care being available to people living in and visiting the State of Nevada; and

WHEREAS, The State of Nevada, through the establishment of methods to provide private equity funding to businesses in this State, would provide economic growth and world-class medical care and training and would assist in the creation of high-paying, quality jobs for people living in the State of Nevada; now, therefore,

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 7, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections ~~[3]~~ 3.5 and 4 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ~~[~~*~~"Corporation for public benefit" means a corporation that is recognized as exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, future amendments to that section and the corresponding provisions of future internal revenue laws.~~*~~]~~ **(Deleted by amendment.)**

Sec. 3.5. ***"Commission" means the Commission on Economic Development or its successor.***

Sec. 4. ***"Private equity funding" means an investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange.***

Sec. 5. ~~[~~*~~1. The State Treasurer shall cause to be formed in this State an independent corporation for public benefit, the general purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited liability companies that provide private equity funding to businesses:~~*

~~(a) Located in this State or seeking to locate in this State; and~~

~~(b) Engaged primarily in one or more of the following industries:~~

~~(1) Health care and life sciences.~~

~~(2) Cyber security.~~

~~(3) Homeland security and defense.~~

~~(4) Alternative energy.~~

~~(5) Advanced materials and manufacturing.~~

~~(6) Information technology.~~

~~(7) Any other industry that the board of directors of the corporation for public benefit determines to be critical to the economic development of this State.~~

~~2. The corporation for public benefit created pursuant to subsection 1 may place investments through the use or assistance of:~~

~~(a) External asset managers; or~~

~~(b) Private equity investment firms.~~

~~*3. Money received pursuant to section 6 of this act by the corporation for public benefit created pursuant to subsection 1 may not be used to make venture capital investments.*~~

~~*4. As used in this section, "venture capital" means equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*[If the State Treasurer obtains the judicial determination required by subsection 3 of NRS 355.060,]*~~

1. At the direction of the Commission, the State Treasurer ~~*[may transfer]*~~ ***shall invest an amount not to exceed $50 million from the State Permanent School Fund*** ~~*[to the corporation for public benefit created pursuant to section 5 of this act. Such a transfer must be made pursuant to an agreement that requires the corporation for public benefit to:*~~

~~*1. Provide, through the limited partnerships or limited-liability companies described in subsection 1 of section 5 of this act, private equity funding; and*~~

~~*2. Ensure]*~~ ***in limited partnerships or limited-liability companies that provide private equity funding to businesses:***

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the Commission determines to be critical to the economic development of this State.

2. The Commission shall ensure that at least 70 percent of all ~~*[private equity funding provided by the corporation]*~~ ***money invested pursuant to subsection 1 is provided to businesses:***

(a) Located in this State or seeking to locate in this State; and

(b) Engaged primarily in one or more of the following industries:

(1) Health care and life sciences.

(2) Cyber security.

(3) Homeland security and defense.

(4) Alternative energy.

(5) Advanced materials and manufacturing.

(6) Information technology.

(7) Any other industry that the ~~*[board of directors of the corporation for public benefit created pursuant to section 5 of this act]*~~ ***Commission determines to be critical to the economic development of this State.***

3. Investments made pursuant to this section may be placed through the use or assistance of:

(a) External asset managers; or

(b) Private equity investment firms.

4. Money invested pursuant to this section may not be used to make venture capital investments.

5. As used in this section, "venture capital" means equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises

Sec. 7. ***The State Treasurer shall:***

1. Adopt such regulations as he or she deems necessary to carry out the provisions of sections 2 to 7, inclusive, of this act, including, without limitation, the performance of such audits and the submission of such reports as he or she deems appropriate to ensure compliance with the provisions of sections 2 to 7, inclusive, of this act and the regulations adopted pursuant to this section. The regulations may include criteria for determining eligibility for and use of private equity funding, but the ~~*[corporation for public benefit established pursuant to section 5 of this act]*~~ ***Commission must have sole authority for the approval of applications for and the management of private equity funding provided pursuant to sections 2 to 7, inclusive, of this act.***

2. Provide the ~~*[corporation for public benefit created pursuant to section 5 of this act]*~~ ***Commission with such assistance as is necessary to carry out the provisions of sections 2 to 7, inclusive, of this act and comply with the regulations adopted pursuant to this section.***

Sec. 8. NRS 355.060 is hereby amended to read as follows:

355.060 1. The State Controller shall notify the State Treasurer monthly of the amount of uninvested money in the State Permanent School Fund.

2. Whenever there is a sufficient amount of money for investment in the State Permanent School Fund, the State Treasurer shall proceed to negotiate for the investment of the money in:

(a) United States bonds.

(b) Obligations or certificates of the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal Farm Credit Banks Funding Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States.

(c) Bonds of this state or of other states.

(d) Bonds of any county of the State of Nevada.

(e) United States treasury notes.

(f) Farm mortgage loans fully insured and guaranteed by the ~~[Farmers Home Administration]~~ ***Farm Service Agency*** of the United States Department of Agriculture.

(g) Loans at a rate of interest of not less than 6 percent per annum, secured by mortgage on agricultural lands in this state of not less than three times the value of the amount loaned, exclusive of perishable improvements, of unexceptional title and free from all encumbrances.

(h) Money market mutual funds that:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued or guaranteed as to payment of principal and interest by the Federal Government, or its agencies or instrumentalities, or in repurchase agreements that are fully collateralized by such securities.

(i) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

(1) The stock of the corporation is:

(I) Listed on a national stock exchange; or

(II) Traded in the over-the-counter market, if the price quotations for the over-the-counter stock are quoted by the National Association of Securities Dealers Automated Quotations System (NASDAQ);

(2) The outstanding shares of the corporation have a total market value of not less than $50,000,000;

(3) The maximum investment in stock is not greater than 50 percent of the book value of the total investments of the State Permanent School Fund;

(4) Except for investments made pursuant to paragraph (k), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the State Permanent School Fund; and

(5) Except for investments made pursuant to paragraph (k), the total amount of shares owned by the State Permanent School Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(j) A pooled or commingled real estate fund or a real estate security that is managed by a corporate trustee or by an investment advisory firm that is registered with the Securities and Exchange Commission, either of which may be retained by the State Treasurer as an investment manager. The shares and the pooled or commingled fund must be held in trust. The total book value of an investment made under this paragraph must not at any time be greater than 5 percent of the total book value of all investments of the State Permanent School Fund.

(k) Mutual funds or common trust funds that consist of any combination of the investments listed in paragraphs (a) to (j), inclusive.

(l) The limited partnerships or limited-liability companies described in ~~*[subsection 1 of section 5]*~~ ***section 6 of this act.***

3. The State Treasurer shall not invest any money in the State Permanent School Fund pursuant to paragraph (i), (j) ~~[,]~~ or (k) ~~[or (l)]~~ of subsection 2 unless the State Treasurer obtains a judicial determination that the proposed investment or category of investments will not violate the provisions of Section 9 of Article 8 of the Constitution of the State of Nevada. The State Treasurer shall contract for the services of independent contractors to manage any investments of the State Treasurer made pursuant to paragraph (i), (j) or (k) of subsection 2. The State Treasurer shall establish such criteria for the qualifications of such an independent contractor as are appropriate to ensure that each independent contractor has expertise in the management of such investments.

4. In addition to the investments authorized by subsection 2, the State Treasurer may make loans of money from the State Permanent School Fund to school districts pursuant to NRS 387.526.

5. No part of the State Permanent School Fund may be invested pursuant to a reverse-repurchase agreement.

Senator Cegavske moved to adopt Amendment No. 575 to Senate Bill No. 75.

Remarks by Senators Cegavske and Kihuen.

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

SENATOR CEGAVSKE:

Amendment No. 575 adds the provisions of Amendment No. 565 to the first reprint of Senate Bill No. 75. The amendment previously adopted by the Senate prohibits money invested under this bill from being used to make venture capital investments. Although the language of the adopted amendment appears to be deleted in section 5, the Legal Division merely moved that language to Subsections 3, 4 and 5 of Section 6 for drafting purposes.

Currently, the first reprint of Senate Bill No. 75 requires the State Treasurer to form an independent corporation for public benefit for the purpose of making private equity investments with up to $50 million from the State Permanent School Fund. Before making these investments, the State Treasurer must obtain a judicial determination that such investments do not violate Article 8, Section 9 of the Nevada Constitution, which prohibits the State from owning equity in private businesses.

Following the introduction of Senate Bill No. 75, the First Judicial District issued a declaratory order that Article 8, Section 9 of the Nevada Constitution does not apply to the State Permanent School Fund because it is a special fund. Based on this declaratory order, Amendment No. 575 to Senate Bill No. 75 removes the requirement that the State Treasurer form an independent corporation to make these investments. Instead, the amendment requires the Treasurer, at the direction of the Commission on Economic Development or its successor, to make private equity investments in private businesses with up to $50 million from the State Permanent School Fund.

SENATOR KIHUEN:

The State Treasurer has a fiduciary responsibility to invest the Permanent School Fund (PSF). An attempt to shift the investment function to an economic development committee creates a conflict, and is contrary to the judicial determination the Attorney General and Treasurer recently received. The Nevada Constitution establishes the Permanent School Fund concept in Article 11, Section 3. In part, it states, "are hereby pledged for educational purposes and the money there from must not be transferred to other funds for other uses." How would a body

whose main function would be economic development, as proposed my colleague's amendment, as opposed to "for educational purposes," be constitutional?

One of the lessons learned from other states' experiences is that states' private equity programs must be de-politicized. When there is political influence in the investment process, programs fail. In the definitive book on the subject of states and countries entering the private equity investment field entitled, "Boulevard of Broken Dreams," published in 2010, author Josh Lerner lists as one of the biggest reasons why such ventures fail is when decision making boards are comprised of politicians rather than investment professionals. The proposed amendment would either place those decisions in the hands of members of the Economic Development Commission, who are not investment professionals and would simply replace one constitutional officer with another, a constitutional officer to whom they all report, or it would place those decisions in the hands of elected officials created in Assembly Bill No. 449. In either case, that is most assuredly one of the biggest errors that other states and countries have made. Senate Bill No. 75 as introduced places those decisions in the hands of investment professionals appointed by elected officials who are independent of the State Treasurer's influence.

Many states have already successfully run similar programs which Senate Bill No. 75 mirrors. Without Nevada putting its money where it economic development mouth is, we will continue to watch businesses select other states to locate their thriving operations, to the detriment of diversifying our economy and eliminating the opportunity to create good paying jobs at a time of record unemployment.

During our Select Committee hearings, countless economic development task forces have continually stated that they need money to attract businesses to Nevada. Senate Bill No. 75 provides that ability to stable companies, which seek to relocate to Nevada and thereby create jobs in our State. Of course, we can choose to continue to just take photo ops of these groups without actually doing anything, which is what has occurred in this State for some time.

Senate Bill No. 75 provides additional funding to K-12 education and was fully supported by Department of Education and the Nevada State Teachers Association during our hearing in my committee. In addition, the business community, economic development agencies, and the Lieutenant Governor spoke in support of the bill in committee.

Governor Sandoval said in his State of the State address, "Innovation will drive tomorrow's economy, and so it must drive our decision making as we rebuild our economic development infrastructure." Senate Bill No. 75 is the appropriate vehicle to drive innovation, and move Nevada forward.

With record unemployment and the need to actually do something to create economic development instead of simply pay it lip service, now is the time to put party politics aside and vote for the people of Nevada.

I urge my colleagues to oppose this amendment.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Senate Bill No. 97.

Bill read third time.

Roll call on Senate Bill No. 97:

YEAS—21.

NAYS—None.

Senate Bill No. 97 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 113.

Bill read third time.

Roll call on Senate Bill No. 113:
YEAS—20.
NAYS—Gustavson.

Senate Bill No. 113 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 244.
Bill read third time.
Roll call on Senate Bill No. 244:
YEAS—21.
NAYS—None.

Senate Bill No. 244 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 430.
Bill read third time.
Roll call on Senate Bill No. 430:
YEAS—21.
NAYS—None.

Senate Bill No. 430 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 441.
Bill read third time.
Roll call on Senate Bill No. 441:
YEAS—21.
NAYS—None.

Senate Bill No. 441 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 444.
Bill read third time.
Roll call on Senate Bill No. 444:
YEAS—21.
NAYS—None.

Senate Bill No. 444 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 475.
Bill read third time.

Roll call on Senate Bill No. 475:
YEAS—21.
NAYS—None.

Senate Bill No. 475 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 483.
Bill read third time.
Roll call on Senate Bill No. 483:
YEAS—20.
NAYS—Gustavson.

Senate Bill No. 483 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 1.
Bill read third time.
Roll call on Assembly Bill No. 1:
YEAS—21.
NAYS—None.

Assembly Bill No. 1 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 37.
Bill read third time.
Roll call on Assembly Bill No. 37:
YEAS—21.
NAYS—None.

Assembly Bill No. 37 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 42.
Bill read third time.
Roll call on Assembly Bill No. 42:
YEAS—21.
NAYS—None.

Assembly Bill No. 42 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 45.
Bill read third time.

Roll call on Assembly Bill No. 45:
YEAS—21.
NAYS—None.

Assembly Bill No. 45 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 46.

Bill read third time.

Roll call on Assembly Bill No. 46:
YEAS—21.
NAYS—None.

Assembly Bill No. 46 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved to suspend rules and dispense with reading the histories of all bills and joint resolutions for this legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 50.

Bill read third time.

Roll call on Assembly Bill No. 50:
YEAS—21.
NAYS—None.

Assembly Bill No. 50 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 61.

Bill read third time.

Roll call on Assembly Bill No. 61:
YEAS—21.
NAYS—None.

Assembly Bill No. 61 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 63.

Bill read third time.

Roll call on Assembly Bill No. 63:
YEAS—21.
NAYS—None.

Assembly Bill No. 63 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 68.

Bill read third time.

Roll call on Assembly Bill No. 68:

YEAS—21.

NAYS—None.

Assembly Bill No. 68 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 73.

Bill read third time.

Roll call on Assembly Bill No. 73:

YEAS—21.

NAYS—None.

Assembly Bill No. 73 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 82.

Bill read third time.

Remarks by Senators Parks, Brower and Hardy.

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

SENATOR PARKS:

Assembly Bill No. 82 provides that the Secretary of State will prescribe procedural and system requirements to be used for any system of on-line voter registration offered by a county clerk. A county clerk who offers on-line voter registration may verify how many registered voters have signed a petition using the same indicia as approved by the Secretary of State to verify new voter registrations. A person who registers by computer must vote in person at the first election after they register and must cast a provisional ballot if they do not provide acceptable proof of identity.

The measure adds military recruiting offices to the list of voter registration agencies, and increases certain penalties concerning voter intimidation, vote tampering, and voter registration fraud. A voter registration agency shall not employ as a field registrar any person who has been convicted of a felony involving theft or fraud. The Secretary of State may pursue action against violators of this provision. The Secretary of State may also charge a fee covering the cost of printing to any group or person that requests more than 50 voter registration forms in one year.

Assembly Bill No. 82 removes requirements for certain persons and groups who advocate the passage or defeat of a ballot measure to register with the Secretary of State. Instead, these persons or groups are subject to the same registration and reporting requirements as political action committees and must report contributions and expenditures in excess of $100. Political action committees must register with the Secretary of State annually.

The bill allows a candidate, including one who withdrew before an election, and an office holder who does not run again, to dispose of unspent campaign contributions by contributing to another campaign, political party, governmental entity, or any combination thereof, and provides that the candidate or office holder may request that the money be used for a specific purpose. A

person may also use unspent campaign funds in a future election under certain circumstances. A legal defense fund must be dissolved approximately 45 days after the close of all legal proceedings and remaining funds may be returned to donors, donated to a tax-exempt nonprofit entity, or a combination thereof.

Finally, Assembly Bill No. 82 makes several technical revisions regarding the creation of mailing precincts, the information that is to be included on public notices posted at polling places, and requires "Incumbent" to appear on a ballot in an election if two or more candidates have the same name and one is the incumbent.

The bill prohibits a foreign national from contributing to a person or group involved in campaigns and elections. These individuals or groups are prohibited from knowingly receiving such contributions. Under these circumstances, such contributions must be returned. A violation is a gross misdemeanor. The measure is effective on July 1, 2011.

SENATOR BROWER:

Thank you, Mr. President. I rise in support of this bill. This contains some real common sense reforms to our election laws. I want to thank the Chair of the Committee for allowing the adoption of the amendment that was proposed to include a ban on foreign contributions to the *Nevada Revised Statutes* (NRS).

SENATOR HARDY:

I rise in support of Assembly Bill No. 82 and appreciate the work of the Committee and the Chair to do such a comprehensive look at voting and registration. I would like to make certain that this is on the record. It is my understanding that the first time you show up to vote after you have had a registration by mail or by computer, however it may be, that there is an identification or utility bill or attestation required that you are who you are and you live where you are registered. That is a request for clarification. It is my understanding that the same deadlines for registering to vote will exist along with the other rules the counties would implement based on what the Secretary of State's guidelines will be.

SENATOR PARKS:

Thank you, Mr. President. Yes, the provision requires that a person who registers to vote by computer must, when they go to vote for the first time after registering, provide acceptable identification to the election department or if it is not deemed acceptable, they will accept a provisional ballot that may be reviewed and subsequently counted if it is proven that they are properly registered. As for the second part of the question, yes, that is correct.

Roll call on Assembly Bill No. 82:

YEAS—20.

NAYS—Gustavson.

Assembly Bill No. 82 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 110, 115, 145, 146, 182, 200, 237, 280, 395, 420, 422, 454, 472, 544; Assembly Joint Resolution No. 1, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 31.

Amendment No. 121.

"SUMMARY—Makes various changes to provisions governing administration of taxes. (BDR 32-434)"

"AN ACT relating to the administration of taxes; clarifying provisions governing the determination and certification of population for apportionment purposes and requiring additional projections of population; revising provisions governing joint and several liability of certain responsible persons for taxes and certain waivers of penalties and interest; extending the period for the Department of Taxation or a county to bring an action in a court of competent jurisdiction for summary judgment against a person owing a delinquent tax or deficiency determination; extending the period for the Department or a county to record a tax lien; extending the period for the Department or a county to issue a warrant for the enforcement of a lien and collect a delinquent tax; **temporarily extending the deadline for submitting cooperative agreements altering the formula for the distribution of money from the Local Government Tax Distribution Account;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Department of Taxation to determine, and the Governor to certify, the annual population of each town, township, city and county in this State for purposes of the apportionment of taxes during the next fiscal year. (NRS 360.283, 360.285) **Sections 2 and 3** of this bill clarify that this determination and certification is of the relevant population as of July 1 of the immediately preceding year. **Section 1** of this bill additionally requires the Department to issue annual reports containing 5-year and 20 year projections of **the** population ~~[.]~~ **of each county.**

The provisions of title 32 of NRS require the Department of Taxation to collect certain taxes imposed on property of an interstate or intercounty nature, the net proceeds of minerals, financial institutions and other businesses, live entertainment, liquor, tobacco, controlled substances, estates and generation-skipping transfers, and various sales and use taxes. (Chapters 361, 362, 363A, 363B, 368A, 369, 370, 372, 372A, 374, 374A, 375A-377B of NRS) Existing law imposes joint and several liability upon certain responsible persons who fail to collect or pay to the Department some of these taxes or any pertinent fees. (NRS 360.297) **Section 4** of this bill limits this liability to the willful failure to pay or collect an applicable tax or fee and applies this liability to all of the taxes and fees required to be paid to the Department under title 32 of NRS.

Under existing law, the Department of Taxation is authorized to waive or reduce the interest and penalties imposed on a person whose failure to timely file a return or pay certain taxes collected by the Department is the result of circumstances beyond the person's control and occurred despite the exercise of ordinary care and without intent. (NRS 360.419) **Section 5** of this bill extends that authority to all of the taxes and fees required to be paid to the Department under title 32 of NRS and to certain fees imposed on the lease of a passenger car by a short-term lessor.

If a person owes delinquent taxes or has a deficiency determination against him or her with respect to any tax administered by the Department of Taxation, existing law authorizes the Department to attempt collection of the tax or deficiency in certain ways. The Department may: (1) file an action in any court of competent jurisdiction for summary judgment for the amount due; (2) file a certificate in the office of any county recorder, at which time the amount due becomes a lien upon all real and personal property the person owns or acquires in the county before the lien expires or is discharged; and (3) issue a warrant for the enforcement of a lien and for the collection of any delinquent tax or fee. (NRS 360.420, 360.473, 360.483) Existing law also allows a county to take such actions when any tax is delinquent on a transfer of real property in the county. (NRS 375.160, 375.170, 375.200) Such actions must occur within 3 years after the date the tax, fee or deficiency determination was due. Existing law allows the State Controller to take certain actions with respect to unpaid debts to the State within 4 years after the debt becomes due. (NRS 353C.140, 353C.150) **Sections ~~[6-11]~~ 6-8 and 10-12** of this bill similarly extend the time by which the Department or county may take action to collect delinquent taxes, fees or deficiencies to within 4 years after payment was due.

Existing law requires the deposit of certain proceeds from liquor taxes, cigarette taxes, real property transfer taxes, city-county relief taxes and governmental services taxes into the Local Government Tax Distribution Account. (NRS 369.173, 370.260, 375.070, 377.055, 377.057, 482.181) Under existing law, the Executive Director of the Department of Taxation is required to allocate the money in the Account each fiscal year to local governments, special districts and enterprise districts in accordance with a mathematical formula, except that a county clerk may, not later than December 31 of the immediately preceding year, submit to the Executive Director a local cooperative agreement which provides for the allocation of that money under an alternative formula that commences the next fiscal year. (NRS 360.680, 360.690, 360.730) Section 9 of this bill extends until May 31, 2011, the deadline for submitting such a cooperative agreement for an alternative formula that would commence with the fiscal year beginning on July 1, 2011.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall:

(a) On or before March 1 of each calendar year, issue an annual report of the projected population of each ~~[town, township, city and]~~ county in this State as of July 1 of that year and the next succeeding 4 years; and

(b) On or before October 1 of each calendar year, issue an annual report of the projected population, as classified by age, sex, race and

Hispanic origin, of each ~~[town, township, city and]~~ county in this State as of July 1 of that year and the next succeeding 19 years.

2. The Department shall post the annual reports required by subsection 1 on an Internet website maintained by the Department and, if the demographer employed pursuant to NRS 360.283 maintains a separate Internet website, require the demographer to post the annual reports required by subsection 1 on an Internet website maintained by the demographer.

Sec. 2. NRS 360.283 is hereby amended to read as follows:

360.283 1. The Department shall adopt regulations to establish a method of determining annually the population of each town, township, city and county in this State and estimate the population of each town, township, city and county pursuant to those regulations.

2. The Department shall***, on or after July 1 of each year,*** issue an annual report of the estimated population of each town, township, city and county in this State ~~[.]~~ ***as of July 1 of that year***.

3. Any town, city or county in this State may petition the Department to revise the estimated population of that town, city or county. No such petition may be filed on behalf of a township. The Department shall by regulation establish a procedure to review each petition and to appeal the decision on review.

4. The Department shall, upon the completion of any review and appeal thereon pursuant to subsection 3, determine the population of each town, township, city and county in this State, and submit its determination to the Governor.

5. The Department shall employ a demographer to assist in the determination of population pursuant to this section ***and the projection of population pursuant to section 1 of this act,*** and to cooperate with the Federal Government in the conduct of each decennial census as it relates to this State.

Sec. 3. NRS 360.285 is hereby amended to read as follows:

360.285 1. For the purposes of this title, the Governor shall, on or before March 1 of each year, certify the population of each town, township, city and county in this state ***as of the immediately preceding July 1*** from the determination submitted to the Governor by the Department ~~[.]~~ ***pursuant to subsection 4 of NRS 360.283.***

2. Where any tax is collected by the Department for apportionment in whole or in part to any political subdivision and the basis of the apportionment is the population of the political subdivision, the Department shall use the populations certified by the Governor. The transition from one such certification to the next must be made on July 1 following the certification for use in the fiscal year beginning then. Every payment before that date must be based upon the earlier certification and every payment on or after that date must be based upon the later certification.

Sec. 4. NRS 360.297 is hereby amended to read as follows:

360.297 1. A responsible person who ***willfully*** fails to collect or pay to the Department any tax or fee ~~[imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS,]~~ ***required to be paid to the Department pursuant to this title,*** NRS 444A.090 or 482.313, or chapter 680B of NRS, or who attempts to evade the payment of any such tax or fee, is jointly and severally liable with any other person who is required to pay such a tax or fee for the tax or fee owed plus interest and all applicable penalties. The responsible person shall pay the tax or fee upon notice from the Department that it is due.

2. As used in this section, "responsible person" includes:

(a) An officer or employee of a corporation; and

(b) A member or employee of a partnership or limited-liability company,

➥ whose job or duty it is to collect, account for or pay to the Department any tax or fee ~~[imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of NRS,]~~ ***required to be paid to the Department pursuant to this title,*** NRS 444A.090 or 482.313, or chapter 680B of NRS.

Sec. 5. NRS 360.419 is hereby amended to read as follows:

360.419 1. If the Executive Director or a designated hearing officer finds that the failure of a person to make a timely return or payment of ~~[a tax imposed pursuant to NRS 361.320 or chapter 361A, 362, 363A, 363B, 369, 370, 372, 372A, 374, 375A, 375B, 376A, 377 or 377A of NRS,]~~ ***any tax or fee required to be paid to the Department pursuant to this title or NRS 482.313*** is the result of circumstances beyond his or her control and occurred despite the exercise of ordinary care and without intent, the Department may relieve the person of all or part of any interest or penalty, or both.

2. A person seeking relief must file with the Department a statement under oath setting forth the facts upon which the person bases his or her claim.

3. The Department shall disclose, upon the request of any person:

(a) The name of the person to whom relief was granted; and

(b) The amount of the relief.

4. The Executive Director or a designated hearing officer shall act upon the request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by a county treasurer or county assessor.

Sec. 6. NRS 360.420 is hereby amended to read as follows:

360.420 1. If, with respect to any tax or fee administered by the Department, a person:

(a) Fails to pay the tax or fee when due according to his or her own return filed with the Department;

(b) Fails to pay a deficiency determination when due; or

(c) Defaults on a payment pursuant to a written agreement with the Department,

➥ the Department may, within ~~[3]~~ ***4*** years after the amount is due, file in the office of the clerk of any court of competent jurisdiction an application for the entry of a summary judgment for the amount due.

2. The application must be accompanied by a certificate specifying:

(a) The amount required to be paid, including any interest and penalties due;

(b) The name and address of the person liable for the payment, as they appear on the records of the Department;

(c) The basis for the determination of the Department of the amount due; and

(d) That the Department has complied with the applicable provisions of law in relation to the determination of the amount required to be paid.

3. The application must include a request that judgment be entered against the person in the amount required to be paid, including any interest and penalties due, as set forth in the certificate.

Sec. 7. NRS 360.473 is hereby amended to read as follows:

360.473 1. If any tax or fee administered by the Department is not paid when due, the Department may, within ~~[3]~~ ***4*** years after the date that the tax or fee was due, file for record a certificate in the office of any county recorder which states:

(a) The amount of the tax or fee and any interest or penalties due;

(b) The name and address of the person who is liable for the amount due as they appear on the records of the Department; and

(c) That the Department has complied with all procedures required by law for determining the amount due.

2. From the time of the filing of the certificate, the amount due, including interest and penalties, constitutes a lien upon all real and personal property in the county owned by the person or acquired by the person afterwards and before the lien expires. The lien has the effect and priority of a judgment lien and continues for 5 years after the time of the filing of the certificate unless sooner released or otherwise discharged.

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

Sec. 8. NRS 360.483 is hereby amended to read as follows:

360.483 1. The Department or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent tax or fee which is administered by the Department:

(a) Within ~~[3]~~ ***4*** years after the person is delinquent in the payment of the tax or fee; or

(b) Within 5 years after the last recording of an abstract of judgment or of a certificate constituting a lien for the tax or fee.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.

3. The warrant must be levied and sale made pursuant to the warrant in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

Sec. 9. **NRS 360.730 is hereby amended to read as follows:**

360.730 1. The governing bodies of two or more local governments or special districts, or any combination thereof, may, pursuant to the provisions of NRS 277.045, enter into a cooperative agreement that sets forth an alternative formula for the distribution of the taxes included in the Account to the local governments or special districts which are parties to the agreement. The governing bodies of each local government or special district that is a party to the agreement must approve the alternative formula by majority vote.

2. The county clerk of a county in which a local government or special district that is a party to a cooperative agreement pursuant to subsection 1 is located shall transmit a copy of the cooperative agreement to the Executive Director:

(a) Within 10 days after the agreement is approved by each of the governing bodies of the local governments or special districts that are parties to the agreement; and

(b) Not later than ~~[December 31 of the year]~~ ***May 31*** immediately preceding the initial year of distribution that will be governed by the cooperative agreement.

3. The governing bodies of two or more local governments or special districts shall not enter into more than one cooperative agreement pursuant to subsection 1 that involves the same local governments or special districts.

4. If at least two cooperative agreements exist among the local governments and special districts that are located in the same county, the Executive Director shall ensure that the terms of those cooperative agreements do not conflict.

5. Any local government or special district that is not a party to a cooperative agreement pursuant to subsection 1 must continue to receive money from the Account pursuant to the provisions of NRS 360.680 and 360.690.

6. The governing bodies of the local governments and special districts that have entered into a cooperative agreement pursuant to subsection 1 may, by majority vote, amend the terms of the agreement. The governing bodies shall not amend the terms of a cooperative agreement more than once during the first 2 years after the cooperative agreement is effective and once every year thereafter, unless the Committee on Local Government Finance approves the amendment. The provisions of this subsection do not apply to any interlocal agreements for the consolidation of governmental services entered into by local governments or special districts pursuant to the

provisions of NRS 277.080 to 277.180, inclusive, that do not relate to the distribution of taxes included in the Account.

7. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.

8. For each fiscal year the cooperative agreement is in effect, the Executive Director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of NRS 360.680 and 360.690.

9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the Executive Director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of NRS 360.680 and 360.690 according to the calculations performed pursuant to subsection 8.

~~[Sec. 9.]~~ ***Sec. 10.*** NRS 375.160 is hereby amended to read as follows:

375.160 1. If any tax imposed pursuant to this chapter is not paid when due, the county may, within ~~[3]~~ ***4*** years after the date that the tax was due, record a certificate in the office of the county recorder which states:

(a) The amount of the tax and any interest or penalties due;

(b) The name and address of the person who is liable for the amount due as they appear on the records of the county; and

(c) That the county recorder has complied with all procedures required by law for determining the amount due.

2. From the time of the recording of the certificate, the amount due, including interest and penalties, constitutes:

(a) A lien upon the real property for which the tax was due if the person who owes the tax still owns the property; or

(b) A demand for payment if the property has been sold or otherwise transferred to another person.

3. The lien has the effect and priority of a judgment lien and continues for 5 years after the time of the recording of the certificate unless sooner released or otherwise discharged.

4. Within 5 years after the date of recording the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the time of recording the new certificate, the lien is extended for 5 years, unless sooner released or otherwise discharged.

~~[Sec. 10.]~~ ***Sec. 11.*** NRS 375.170 is hereby amended to read as follows:

375.170 1. If a person is delinquent in the payment of any tax imposed by this chapter or has not paid the amount of a deficiency determination, the county may bring an action in a court of this state, a court of any other state or a court of the United States that has competent jurisdiction to collect the delinquent or deficient amount, penalties and interest. The action:

(a) May not be brought if the decision that the payment is delinquent or that there is a deficiency determination is on appeal to a hearing officer pursuant to NRS 375.320.

(b) Must be brought not later than ~~[3]~~ ***4*** years after the payment became delinquent or the determination became final.

2. The district attorney shall prosecute the action. The provisions of the Nevada Revised Statutes, Nevada Rules of Civil Procedure and Nevada Rules of Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. In the action, a writ of attachment may issue. A bond or affidavit is not required before an attachment may be issued.

3. In an action, a certificate by the county recorder showing the delinquency is prima facie evidence of:

(a) The determination of the tax or the amount of the tax;

(b) The delinquency of the amounts; and

(c) The compliance by the county recorder with all the procedures required by law relating to the computation and determination of the amounts.

~~[Sec. 11.]~~ ***Sec. 12.*** NRS 375.200 is hereby amended to read as follows:

375.200 1. The county or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent tax that is administered pursuant to this chapter:

(a) Within ~~[3]~~ ***4*** years after the person is delinquent in the payment of the tax; or

(b) Within 5 years after the last recording of a certificate copy constituting a lien for the tax.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.

3. The warrant must be levied and sale made pursuant to the warrant in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

~~[Sec. 12.]~~ ***Sec. 13.*** NRS 4.065 is hereby amended to read as follows:

4.065 1. The justice of the peace shall, on the commencement of any action or proceeding in the justice court for which a fee is required, and on the answer or appearance of any defendant in any such action or proceeding for which a fee is required, charge and collect a fee of $1 from the party commencing, answering or appearing in the action or proceeding. These fees are in addition to any other fee required by law.

2. On or before the first Monday of each month, the justice of the peace shall pay over to the county treasurer the amount of all fees collected by the justice of the peace pursuant to subsection 1 for credit to the State General Fund. Quarterly, the county treasurer shall remit all money so collected to the State Controller, who shall place the money in an account in the State General Fund for use by the Executive Director of the Department of Taxation to administer the provisions of NRS 360.283 ~~[.]~~ ***and section 1 of this act.***

~~[Sec. 13.]~~ ***Sec. 14.*** ~~[This act becomes]~~

1. This section becomes effective upon passage and approval.

2. Section 9 of this act becomes effective upon passage and approval and expires by limitation on June 30, 2011.

3. Sections 1 to 8, inclusive, and 10 to 13, inclusive, of this act become effective on July 1, 2011.

Senator Leslie moved that the Senate concur in the Assembly amendment to Senate Bill No. 31.

Remarks by Senator Leslie.

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

Thank you, Mr. President. This amendment clarifies that the 5-year and 20-year population projections that are required to be performed by the State Demographer be done for each county in the State and does not require projections to be made for towns, townships or cities. The amendment also extends the period for which local governments may enter into an interlocal agreement to revise distributions of revenue from the local government tax distributions from December 31 to May 31 for an agreement that would begin in Fiscal Year 2012. These are technical adjustments. There had been some questions on our Committee, but those have all been cleared up.

Motion carried by a constitutional majority.

Bill ordered enrolled.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 49, 84, 408; Senate Joint Resolution No. 14.

REMARKS FROM THE FLOOR

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

Thank you, Mr. President. We heard earlier this evening the message from the Governor regarding the budget we sent him for education. To say I am disappointed is an understatement. On my desk is a picture of me listening to students at Wiener Elementary School. I have placed it near my voting button so that I can see the faces of children before each vote I cast.

As you will recall, I spoke to you the other day about the thousands of grade school students I visit each year, 20 to 30 schools annually, not just in my district but throughout southern Nevada. I visit as many schools as will have me because I believe it is important to let the voices of the children become part of the message I bring to these Chambers. Their message is what I am going to share with you right now. They have shared with me, their words, and their feelings each time I visit a school. They want to know what is happening to their education. They want to know what we are going to do to ensure that they get the best education possible.

They get it. They know less money means a significant impact on the opportunities they have as students and beyond. They know it means their teachers will have to spend more money out of their own pockets to pay for classroom supplies and worse, that teachers will have less money

in their pockets if the governor's education budget stands. They know it means not just sharing textbooks, but hoping there is one textbook set in their classroom. They know that under current conditions and current proposals in the Governor's budget there will not be texts in the classroom and they will not be able to take them home. They know that many of the classes they need in order to learn and move forward with their education, because of the tests we conduct and the standards we set in classes like science, are not going to be available. They will not have the opportunity to experience maximum learning because the classes are too large. Often, the teachers do not get to know anything about their students because there are too many. They get it.

Governor Sandoval has said he visited dozens of schools during his campaign and since then. I do not know what students told him. But, I do know what thousands of children told me. They want enough money invested in their education so that they can have the best opportunity to learn. They do not want so many children in a classroom that they feel lost and anonymous. They want to have the opportunity to get to know their teachers and their classmates and most importantly, the subject matter. They know that too many students in the classroom means the teachers cannot teach and they cannot learn. They want their own textbooks. They need to have the vital tools to learn. All they ask is that we listen to their pleas, to really listen to their pleas when they speak from their heads and their hearts.

It is my hope that somehow we members of the Senate can find the common ground to work together, because we know how to do that. Now is the time to work together and to find a way to work for the children. We love the children and we must find the common ground to give our children what they are asking to have, the opportunity to travel the path with the tools, with the support system, and with those teachers who love them as much as we do. This is not just what the children are asking, it is what they deserve. I encourage all of my colleagues to listen one more time to what the children are saying so that we can support education in a way they deserve and that will enrich this State. By knowing more, children will have the opportunity to do more.

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

Mr. President and members of this body, I have made it a point this Session to stress the importance of our community colleges in redirecting and rebuilding our economy. Those colleges can be the bedrock for educating and retraining Nevadans for the new economy we want to build.

But, community colleges cannot be successful in that new role unless the students enrolling in them have the basic skills they need to succeed. Our community colleges have to devote much of their resources to remediation, just getting students up to par on what they should have learned in high school. I have to admit that.

That will not change if resources are pulled back for K-12 education.

We need to graduate more students from high school who are ready for higher education. We do not accomplish that by putting our high school students in larger classes, with less opportunity for the individual attention they need to avoid having to take remediation classes in community college.

Our education system is a continuum, and you cannot short one part without shorting another. You cannot cut K-12 education, and expect our community colleges to deliver better results.

Mr. President, I value my relationship with Governor Sandoval and I respect him and I respect his positions and his reasons for this veto, however, I have to differ with my good friend on this portion of the State Budget. I do hope to be able to continue to work with Governor Sandoval to solve my concerns with the unfair funding of the community colleges and my request to change the funding formula in the near future.

Thank you, Mr. President.

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

Mr. President and members of this body, I rise to point out something interesting that has transpired in the last few days. Just prior to vetoing the K-12 education-funding bill, the Governor vetoed redistricting legislation, partly on the grounds that it was a disservice to the Hispanic population in this State, giving them less opportunity for political participation.

While I disagree with the Governor on that, and said so publicly, I want to point out what does deny opportunity to Hispanics in this State and that is an underfunded education system.

We want more of our growing Hispanic population to graduate from high school, and go on to college. We want to make that possible by helping students with language and reading skills in the early grades when they need it. The Governor's K-12 budget ensures that will not happen. More of our students will struggle, and fewer of them will succeed.

I am asking the members of this body to consider this if you really want to help the Hispanic population of this State; do more for K-12 education, not less. Give them the same opportunity for a good education you say you want for them politically.

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

The Governor stated in his veto message that we need to reform education. We can talk about cuts. We can talk about reform. We have been doing it for months. One point no one has been able to answer for me is, how can we improve our schools in any way if we defund them? How do you keep the school doors open when we underpay teachers and let schools that are falling apart continue to deteriorate?

With this veto, the schools that are failing will continue to fail. The schools that are performing well, will become factories of underachievement. You cannot cut your way to reform when you have already cut to the bone.

Our proposed K-12 budget has less spending appropriated than in 2009. We are not increasing funds to schools, we do not have a spending problem, and we are just trying to make sure that our schools stay afloat.

But the Governor is sinking our schools instead of saving them. This veto demonstrates that there is no forward-looking strategy from the Governor. As legislators and stewards of this State, we have the obligation to fund education in the good times and the bad. There is no time when it is appropriate to put our children's future on the chopping block. Students and parents rely on us to give their families a fighting chance, and if we do not fund education now, we will be paying for it for decades. There is no good for our State in making education such a low priority. I would ask this body, when you are deliberating in either caucus, remember what we are here for. Thank you, Mr. President.

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

Thank you, Mr. President. I would like to respond to what I have heard so far.

When the Governor vetoed the Distributive School Account budget, I think there was a reason to his decision. My frustration on this point is that when the Economic Forum told us how much money we had to spend, we had an opportunity to reinvest that money. Republicans put forth a plan that would have reinvested $232 million of that into the K-12 school system. That would have taken up all but $15 million of unallocated General Fund reduction in the K-12 education budget, which would be $15 million statewide.

When the K-12 budget was passed out of Senate Finance and Assembly Ways and Means, it was done so by adding back $660 million that was targeted reductions within the Governor's budget proposal that was specific to salary and benefit reductions for K-12 school district employees, 45 percent who are teachers and 55 percent who are not teachers. Those proposals were, with one exception, rejected. Those are the same proposals, for the most part, that were requested from the Executive Branch State employees. When we closed the statewide allocations for Executive Branch State employees, we kept those in. We said Executive Branch State employees can take this, but we are not expecting the same out of the school districts.

I understand the school districts have to go through the collective bargaining process, but we are not even asking. Does that mean we have gotten to the point that we do not even ask?

I believe that if we had followed through on that proposal we could have fully funded full-day kindergarten as it is in our budget right now, as it is this biennium. We could have funded class-size reduction as it is in this budget right now. We would have had $15 million statewide for the K-12 system to deal with as a reduction. Is it realistic that they would have received every concession that was listed? Probably not. But we did not even ask. I find it frustrating to say it is okay to ask for that concession from the Executive Branch State worker who works for us, but not expect to ask it of employees of other branches of government.

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

Thank you, Mr. President and the members of the body. I am standing in support of funding education adequately. The Governor's veto of K-12 funding puts every school and every child at risk. Often, our focus in this Chamber is on the schools that are failing, and for good reason. But, we can't forget that we have successful students, teachers, and schools throughout our State.

The children who are succeeding, and they are in every school in Nevada, are going to suffer if we let the Governor's veto stand. For the teachers who can reach the middle of the road student, teetering between success and failure, we pack more kids in their classroom. This will make their school day less about teaching and more about crowd control.

For the students with families in dire financial situations and few resources at home, for the students who rely on school funding to keep them afloat, we take away their textbooks and close their libraries.

Our State cannot afford to neglect education. We are short-changing everyone in the State: the students who need help, the students who are succeeding, and everyone in between.

I would like to read an e-mail from a constituent a few days ago.

He says, "Hello, I am the father of a high school junior and I am outraged because of the imminent budget cuts that threaten my son's education. The Governor's proposed budget will eliminate classes crucial to students such as my son who are pursuing careers in engineering. In fact, these cuts will significantly hurt my son's chance of being accepted to the university of his choice. His high school will not be able to offer Advanced Placement (AP) Calculus, AP Chemistry and AP Physics because of staffing cuts. How can my son compete for a spot in an engineering program if he cannot take these prerequisite classes his senior year? Unfortunately, budget cuts will also decimate some programs and diminish others at the University of Nevada Las Vegas (UNLV) and the University of Nevada Reno (UNR). This is why my son and most of his classmates do not want to attend our own universities. I urge you to show backbone and do the right thing. Demand and vote for adequate funding for education. Stop blaming our students and our teachers for the economic woes we are currently suffering. Neither caused the problem."Colleagues, I ask you to please take these words seriously and consider funding our education system properly.

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

Mr. President and members of this body, I have chaired the new Select Committee on Economic Growth and Employment during this Session.

Virtually every company that has come before this Committee to talk about economic development has talked in the same breath about the importance of education. It is often their first consideration in deciding whether to set up business in a state.

These companies think about their employees and where the children of those employees will be going to school, and the kind of education they will receive. These companies also know they will not be able to attract top-notch new employees if they are in a state without a good education system. Companies such as IKEA who last year refused to come to Nevada bringing 800 jobs to our State because they said we do not have enough college graduates to fill those jobs and those positions. They know they will not find the trained employees within a state unless there is a solid education system.

The Governor's veto of Assembly Bill No. 568 sends exactly the wrong message to these businesses who want to come to our State. The Governor wants us to believe our economy will recover dramatically in the next two years. But then he shortchanges education, the very thing that can make this happen. That makes no sense, and I hope all members of this body will see this contradiction when it comes time to vote on overriding the Governor's veto. A vote to override this veto is really a vote in support of strengthening the economic development and diversification we so desperately need in this State.

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

My friend, the Governor's veto today sends a message that the he is willing to put politics and ideology ahead of finding real solutions for our struggling schools. At least that was my interpretation. Moments after he vetoed funding for our classrooms, he and his advisors began declaring all options to fund education dead on arrival. They essentially said, "Time's up!"

The last I checked, we still have three weeks of work left in Session. We have a lot of work to do and a lot of time to do it in. I am frustrated that we keep hearing that there are no solutions to our education funding. I think there is. We are only here for a short period of time and we cannot stall. We need to keep moving. We have the option to work together or to hold steadfast in our positions. If we work together, I think we can find solutions. If we choose to draw lines in the sand, then we have decided to run out the clock on our children's futures for political purposes. I do not think that is right.

I just ask all the Legislators in this Chamber to remember that none of us would be here today if it was not for our great teachers and mentors. None of us would be here today if our schools were defunded. We owe our children at least the same opportunities we were afforded in life. How can anyone stand here in this privileged Chamber and stomp on the hopes and dreams of those who have so little? For so many kids, education is the only opportunity they have to improve their standing in life, we cannot close that door on them.

We cannot take their one hope away from them. They cannot afford it. We need to get back to work and get it done fast.

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

Thank you, Mr. President, and members of this body. We have heard a lot this Session that the silver bullet for student success is education reform. We have also heard that every state is making cuts, so we have to cut too. But, other states were far exceeding us in their investments in education before the recession began, and now we are falling even farther behind.

We are told that Florida has reformed their education system. That is true. However, they spend more per pupil. They have class-size reduction and early childhood education enshrined in their Constitution. They are making the right investments. We, simply, are not.

Reform is necessary, but we cannot reform our way out of crumbling classrooms. States that are models for reform fund their schools adequately. We cannot attract the talented teachers that reform demands if we continue to cut their pay. It just does not add up.

If we cannot meet our obligations as lawmakers to adequately fund education, I am afraid our State will continue a downward spiral of student achievement. This is not just another budget debate about numbers on spreadsheets. There will be real consequences. Businesses will not move here. Good teachers will not sign up to teach. Students will not learn, and their futures will be limited by our choices. We will have once again kicked the can down the road. We cannot let that happen.

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

The Governor said in his veto message that he wants to fund education in a "fiscally prudent" manner, but his plan for defunding education is anything but.

Creating a $1.1 billion dollar budget hole is not fiscally prudent. Raiding bond reserves that may force school districts to refinance their debt is not fiscally prudent. Mortgaging our future by securitizing the insurance premium tax is not fiscally prudent. That is paying for today's groceries with your credit card. Misusing voter approved funds is not fiscally prudent. Hoping for sustained 12 percent economic growth is not fiscally prudent and is pure fantasy. None of these gimmicks in the Governor's budget are strategic. There is no vision for the future. There are only shortsighted tricks. Not only is this a disaster for our kids, it is a disaster for our State.

We heard testimony this morning from big companies and small businesses. The CFO of Zappos said that they rely on a workforce that is educated and innovative. We also heard testimony from small businesses. They all said the same thing. You cannot have an educated workforce if students do not make it through grade school. That message has been reinforced for weeks by the leaders of the business community. Undermining our schools undermines our economy. That is not fiscally prudent, either.

We need a long term vision for our State. Unfortunately, the Governor's budget continues what we are used to here in Nevada. It is a plan for our State, poorly constructed, that is does not look beyond the upcoming biennium. I hope we can find compromise in this Legislative Body, but the Governor's budget for education is one I cannot and will not support. We sent him an alternative and he rejected it. Our only hope now is to work together to come up with a solution

that ensures the future of our State for ourselves and even more importantly, for our children. Let us do it.

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

Thank you, Mr. President. I think that the rhetoric and hyperbole around this issue has become overheated and exaggerated since the beginning of the Session. We had, with the Economic Forum projection, a positive development with respect to the budget. Most of us do not seem to understand that. The rhetoric has ramped up, even from that point. We keep saying that we have a terrible K-12 education system in this State. If we continue to say that, it will become the reality. If we continue to say that businesses will not come to Nevada because of the education system here, that is what we will get.

We all know that our system is not as bad as those who would like to make the case for more funding would have us believe it is. Most of us are products of this system. Many of us have done pretty well in this system. We all meet people every day who are graduates of our high schools, and from what many may not consider to be the best high schools, but they finish, graduate, go on to college, they do very well. We must be doing something right.

We can improve; there is no doubt about that. We all know, and I have said this before, that we have for the last 40 years continuously put more money into per pupil spending and we have continuously received results that do not reflect that. How can it be that the high school graduation rate has steadily declined over the last four decades while spending has gone up? That tells me it is not simply a money issue. We do not have the extra money to continue to do that.

My colleague from Clark County read an e-mail earlier. We all receive e-mails. I have not heard an e-mail read this Session on the other side of this issue. I will read one tonight.

"My wife is a public school teacher at an elementary school. I am an instructor at a community college. We are old enough to retire, but have kept working as our retirement will not keep up with the cost of living. If money solved the education problem, no child in the United States would be left behind. The teachers with their powerful union are holding the children of Nevada hostage. A class size of 16 is unrealistic in today's economy."

I would like to point out that none of us had a class size of 16. I certainly did not in the public schools in Clark County.

"Even teachers under the age of 40 can remember the days of 25 to 30 in the classroom. Learning did occur. A teacher's dedication and skill are what makes the difference. If the State income is down, then all employees that are paid directly or indirectly with State funds need to have their income cut by the same percentage. For example, a highway maintenance man should not have to take a cut in salary and benefits while his children's teacher gets a raise. We are willing to take a pay cut and pay some of our own benefits. Some income is better than no income."

I know that is just one e-mail, but I have received many e-mails like that from people all around our State. We need to bridge the differences and resolve this debate.

I think the rhetoric has been overblown and is not helping to bring us together. It is not as bad as some would make it out to be.

Yes, education can be improved in this State. Yes, we would like to fund education more than we will be able to in this biennium. Let us come together and agree on what is good about our system. Let us do what we can to improve it within the means we have for this next biennium. Let us start talking about the positive things that our system provides to our children. Thank you, Mr. President.

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

Mr. President and members of this body, I just want to reiterate my remarks of the other day, when I spoke about what it would take just to get Nevada to the middle in funding education. I said that to just get us to mediocre, just to the middle of the 50 states it would take $1.7 billion. I spoke against our funding bill because I wanted $1.7 billion which would only get us to mediocre. We sent a funding budget to the Governor that was only 35 percent short of that number. He vetoed that. He has put us back into the cellar. We are in the cellar right now. He has put us further in the cellar with what he did today.

In my ten sessions here, we have gone backwards. To my friend from Washoe District No. 3, if you think that a 50 percent drop out rate is good, and our education system is doing just fine. I am shocked. I know you went to Bonanza High School in Las Vegas. The drop out rates were not at that level then.

We have had explosive growth for two decades in this State. The people who have moved to this State were service industry workers. English was not their first language. It costs more to educate the students we have today. It is fine to be macho and say I am not raising taxes. I am drawing the line. I am not going to waffle. I am going to be macho, but that does not get the job done.

We are failing. We have cut teacher pay 10 percent. We have loaded the classrooms with more students, and then told them to go into those rooms and do a better job. The good teachers are leaving. Last session, I spoke about a Yale educated professor at the University of Nevada Las Vegas (UNLV) who left because he saw there was no commitment to education. He is at Holyoake College in Massachusetts as a department chair of environmental studies. He got that job in two weeks. That is what is happening to our good professors, our good teachers. We are losing them.

I encourage all us to try to negotiate a compromise. I will sit down with anyone. You want reform, let us talk about reform. Let us get serious about it. But, let us get serious about what we are going to invest in our students. The Governor sends his children to Bishop Manogue. He does not send them there for $5,000 a year. You have to be kidding. In Las Vegas, where you have about 75 percent of the students, if you want to go to one of the better schools in Las Vegas, go to the Meadows where tuition is $15,000 plus expenses. At Bishop Gorman, tuition is $12,500 plus expenses. All of the schools are like that. If you want a good education, you have to pay for it. We are trying to get by on the cheap. We are trying to be macho. "We will not raise taxes. We are going backwards."

I have been here in the Senate for 20 years. Let us talk about the children who were born when I was elected. Half of them have dropped out of school. That is not a successful education story. That is a failure. We can do better. We can ask our businesses to participate. I can participate. The ranchers and farmers can participate. We all must participate. We can do better. Thank you, Mr. President.

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

Thank you, Mr. President. I will try not to give a lecture, though I do not know any other way to force a discussion than to bring it to the Floor of the Senate. I am appreciative of my colleagues from Washoe District No. 4 as well as Washoe District No. 3 and in discussions with the representative from Clark District No. 12. I know that there is a great deal of concern on both sides of the aisle about how we can best address the budget issues and deal with these complex problems. I also feel that there is a sense that the alternative is just to follow the Governor and his budget plan regardless of the implications that were discussed by my colleague, the Chair of Revenue, and the negative non-recurring revenues that are in the Governor's budget. She discussed the sweeping of the capital reserve money that is supposed to go to providing safe schools for our children, and how it is not fiscally prudent. Regardless of party, you cannot in good conscience say that we should borrow $250 million to pay off our bills today, and then mortgage the future for the next four years. It is not fiscally prudent.

Each of us makes our own decisions in different ways. I try to come to my decisions from a motivation point. Anyone who knows me knows that I make decisions based on core principles and values. When it comes to education, the core principle and value for me is about my children, their generation, and their ability to have an opportunity to do better in their generation than I had in mine, than my parents and grandparents had in theirs.

There are many of us here who are parents. Some of us are grandparents. Think about that moment in the delivery room when your child takes its first breath. That is what motivates me. When each of my children was born, it was God's gift to me to have them come into the world. When I looked at them, there was nothing that I would not do to make their life better or to honor the promise that I made, that I would do everything humanly possible to give them every opportunity to succeed in life.

My colleague from Washoe District No. 3 rightfully says that we cannot just put this in black and white boxes. This is not that all of our schools are poor. You are right. We have many great successes. There are schools that are performing. There are students and teachers who are doing their job. But, the Governor's budget as originally proposed and the veto message that he delivered today short changes those schools, too. It is not just in the underperforming schools where change needs to occur.

We have debated as a body, not just during this Session, but also in previous sessions, that we do want to see reform. I have advocated for legislation since before I was a Legislator to improve our schools, whether through charter schools, empowerment schools, where I co-sponsored the legislation with the former Governor. We brought forward, what was then the most comprehensive reform bill last session, S.B. No. 330 of the 75th Legislative Session. It passed this body unanimously.

Twice, there have been members from the other side who have said that the majority party is beholden to public employees or that the teachers' union is somehow the root cause of the problem.

Do you know what the problem is? It is all of us, as adults. We are all the problem. We need to share in the responsibility that we are not doing right by our children. We are not, not in this State. Not in the schools, that many of colleagues represent that are from poor neighborhoods. These are the schools with low-income children who come to school having never seen a dentist. Many of them have not had breakfast. Some of them do not have the basic language skills and are not even proficient in their own native language, let alone in English. When we ask why the graduation rates are not what we want them to be, let us look at all of us as a society.

I also received an e-mail from a constituent. All of us have been getting many e-mails lately. This e-mail was from a teacher. The teacher said, "I spend 10 percent of my time actually being able to instruct the students." Ten percent of that student's day is with the teacher.

I agree with the Minority Leader. In many cases, we put many burdens on our teachers. We have put many mandates on them. We have told teachers how to do their do their jobs from everything about how to pick up a pencil and how to write on the chalkboard. We have told them how to do every part of their job as if we are the experts and as if we know the answer. We do not. This teacher said, "If I only get 10 percent of the child's day to actually teach them, who is accountable for the other 90 percent? Where are the parents? Where are the community members? Where are the business leaders? Where are all of us as a society and what is our accountability toward that child?"

Public education is about an opportunity, not for some children. Not for the haves, not for those who come from one side of the tracks or the other. It is for every child. I agree with my colleague from Washoe District No. 3 when he talks about the fact that there are good schools. Let me talk about some of those good schools.

From Green Valley High School in the south to Carson Valley Middle School in the north, from elementary schools like Lamping to Hunsberger, these are schools that are changing lives, growing young brains and creating that bright future that is so important. We have exemplary schools in this State, some of which are nationally ranked. Booker Elementary Empowerment School in my district is a Title 1 school. Most of the students are low income. I was proud to send my child there for kindergarten because I knew they would get a great start in their education. That is an exemplary school. This budget by the Governor cuts funding to exemplary schools, to gifted students, to teachers who are performing just as much as it cuts funding to those schools who need extra help through early childhood education, through full-day kindergarten, through early language learning, through career and tech. It is not just to the low performing or the underperforming schools. This budget cuts even deeper.

I agree accountability and reform should be part of an educational equation, but the Governor today has issued a blanket veto. The teachers will have to do much more with much less. Unfortunately, the losers in that equation are not the teachers, but the children who need us to believe in them the most. To my colleague from Washoe District No. 4, he talked about the decisions the Finance and Ways and Means Committees made where we voted to close the budget at the Governor's recommended level to require teachers to pay 5.3 percent of their take home pay toward their Public Employee's Retirement System (PERS) contribution. That is something that has not been done in decades. He then compared that and said that we did not

treat them fairly compared to other State workers who were asked to take a 2.5 percent cut plus 6 days of furlough which equals a 4.8 percent overall reduction in take home pay. We ask teachers to do 5.3 percent. We ask State workers to do 4.8 percent.

The Governor's budget has $700 million of reduced State spending, $660 million of which is to education. Where is the shared sacrifice in that? We all say that education is the priority and that education should be first, and we all campaign on how important education is, yet $660 million out of the $700 million of proposed reduction is to education, K-12 and higher education?

The message the Governor sent today in this veto is that we do not care about our children's future. I disagree. I do care. I think many of us care. The business community cares. Teachers care. Most of all, parents and our children care. With this veto, the Governor sends the message that education is not the priority. I do not know how anyone can look into the eyes of a child and not want to do the best for them. Yes, there are cuts to be made. We will make the cuts. We have agreed to more than $1 billion in reduced spending. But, we have also asked for a more balanced approach, a compromise, to consider continuing the existing revenues currently in place that are not a detriment to the economic recovery. The Revenue Committee learned this week that under the Governor's budget the gaming industry would receive a $50 million tax cut. The mining industry would receive a $9 million tax cut. We asked the representatives from the mining industry, "Is this something you asked for? Do you need this $9 million?" Tourists will be paying $67 million less in the upcoming biennium by just not continuing the existing revenues that are in place. The average Nevadan will get an $88 tax cut. Those of us who make a little more in revenue like my wife and I with our joint income will receive $232 tax cut. We do not want the tax cut. The mining industry did not ask for the tax cut. I do not think the gaming industry expects to get $50 million back or to pay $50 million less so that our teachers have to take a 10 to 15 percent pay cut, so that we have to reduce spending on full-day kindergarten, so that we eliminate ELL programs or career and technical programs. I do not think that was the equation that people were considering. But, those are now the choices that are before us.

It is time for us to take a stand for our children and their futures. To do anything less will be to break the promise that we made from the moment that they were born. My message tonight, to the Governor and to those who support his budget is a quote by Margaret Mead:

"Never doubt that a small group of thoughtful, committed people can change the world. Indeed it is the only thing that ever has."

I am prepared to consider reforms. We have had open and transparent debate on this Floor and in the Committee of the Whole on the budget hearings. We will continue to discuss and take votes on policy reforms from everything from education to public employee to budget reform. It should include revenue reform as well. For the Governor to say in his message or in the follow-up message from his staff, that they will not consider revenue reform that is revenue neutral is to say your ideas do not matter. It is to say that the Modified Business Tax that we currently have in place that is regressive on small businesses can remain. That we do not want to provide for a fairer, equitable, and more stable revenue source. That is not what this process is about. The Governor has staked out his position of "no new revenue." There are those of us who have staked out a position of "we cannot cut education anymore." The truth of the matter, the compromise, the cooperation is in the middle of that. We both have to give. Both sides have to give and we have to be willing to work together and listen and find that common ground. I hope for the sake of our children that we will do it together.

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

Thank you, Mr. President. I appreciate the eloquence of the comments we have heard here tonight. I appreciate the Majority Leader's comments amongst others.

The Economic Forum in December looked at the projection for the Governor's Budget. The Governor used that Economic Forum to predict that were going to receive $5.33 billion in this next biennium. In April 2010, I took the opportunity to talk to the previous administration's financial advisors about what the projection was going to be in the biennium. They said we would receive $5.3 billion. That amount included the sunsetted taxes.

I was stunned when the Economic Forum in December of last year came out with a projection that we would have $5.33 billion. How can we do that without the sunsetted taxes? If I do the

math, without the sunsetted taxes of over $600 million, we are anticipating getting increased revenue of $627 million. I was surprised on May 2 of this year when the Economic Forum projected an increase above that. The December estimate was probably on target.

I prepared a graph that showed the economic growth as it has been in the past. During this great recession, we are actually on the uphill side of our economy in spite of being in a recession. The worst is behind us. The future is ahead of us. We are climbing up the slope in our economy.

In 2003, I admit I voted for the largest tax increase in Nevada history. We wanted to use that for education. I told people that I was voting for education. We funded education and that vote for taxes has carried us through until this great recession. We gave $300 million back to the people of this State in 2005.

I have served on the Education Committee. We made several observations. We said we should mentor. We should get parents involved. We did all of the things Education Committees are still doing and still talking about. With the increased money and with the increased awareness of what we are going to do to reform education, we still decreased in our graduation rate. We still had challenges. There is more to education than just the school and the money involved.

When we look at the pie chart of the budget, 55 percent of the budget goes to education, rightfully so. Then 30 percent goes to the human and health services and 20 percent to prisons and programs. When we started cutting in 2008-2009, we took the greatest percentage of those cuts from other areas instead of education. Now we are faced with, what else can we cut? That is the dilemma of how we treat education.

In the last six months, we received $200 million more than we thought we would and have added that back into the education budget. If you look at the next 12 months, that could be an extra $400 million which would be $800 million in the biennium. The Governor suggested that we do add-backs. If we looked at doing the 5 percent pay cut, the merit pay and the Public Employees Retirement System (PERS) sharing, we would add back and fully restore class size reduction, full-day kindergarten etc. With those add-backs going forward we can anticipate that the economy, if we do not make any mistakes, will still be going up. If we create a trigger within that climb up the economic slope, we will be able to say this is the priority. My priority is add-backs. On that economic slope, we will be able to add back $20 million to the Nevada State Higher Education System into this biennium and to move forward the $20 million the Governor put in the next year of the biennium. If you shift those out, you will get the smoothing that Chancellor Klaich talked about.

On that slope, you will be able to trigger when Medicaid and Medicare come in. This is the approach I am looking at. We have a system where we give a barrel of money to the school district and they decide where to put it. If we could take that barrel of money and put it into buckets, we would probably be able to have some control over those expenses and be able to do the add-backs in a triggering way that would be more under our control as to our projections in money.

I must pay homage to my wife who is here, tonight. Mothers are where our children get their education. That is one of the challenges we have in this State. We are trying to figure out how to allow our parents to be involved with the education of our children. It is a challenge.

We are on the upslope and I would be very positive telling the university professors, Desert Research Institute (DRI) and the teachers not to worry, we will get there. You will still have a job. We are still going to teach children and we still love them.

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

Thank you, Mr. President. The Governor was true to his word. I will not try to defend him. He is a big boy. His office is just across the mall and we can talk to him.

He added additional funding to the K-12 budget after the Economic Forum. He has provided us with a spending plan, which treated K-12 employees the same as our State employees. He provided a comprehensive legislative package to ensure educator accountability, parental choice and other much needed system reforms.

We support critically needed education reform that emphasizes students over bureaucracy, more education dollars in the classroom and decision-making ability and accountability at the local level.

We all wish the current economic realities were different and there was a light at the end of the tunnel, however, our current realities require that we spend only the money that we have while allowing for the additional funding of education as the economy continues to improve. I believe it will.

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

Thank you, Mr. President. I would like to respond to the comments made by the Majority Leader regarding the pay issues. It is true that the committees did vote to ask school district employees to contribute 25 percent of their retirement contribution. The public still makes up the other 75 percent. State employees pay half. As a part of the collective bargaining process decades ago, the districts decided to pay fully for the retirement benefits for their employees for the year. That has lasted for 30 years. It is called PERS equalization, but in the end, the district employees will be paying half of what State employees pay. That is already taken out of their check.

I appreciate the Majority Leader's comments. I do think about my children as we go through this process. I was planning on reading *"Where the Sidewalk Ends"* to my children. You should hear them laugh when the boa constrictor eats that man. They go crazy.

But the question we are asking is what is the balance? It is not just balancing revenue versus cuts for education. It is balancing what this State needs to be as we emerge from this economic recession. The e-mails I receive from parents and the letters I receive from students I assume that all of them want a good, strong, solid and robust economy so that everyone could have a job. We have heard a lot about the need for education to drive the economy. Under our current system we had the most robust and vibrant economy in this country for a decade. We had people flocking to Nevada to take advantage of economic opportunity. A strong economy is what we need to be focusing on so that not only can students get an education, they will have a job available to them when they do graduate. It is not just balancing revenues versus cuts. It is not just balancing K-12 versus higher education, but it is looking at the entirety of our State and how we get to where we want to be. All of us recognize that we are not there right now. We all have hope, belief and faith as Nevadans that we will get there.

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 Robinette Bacon, Jennifer Hadayia, Stacey Rice and Gwen Taylor.

On request of Senator Copening, the privilege of the Floor of the Senate Chamber for this day was extended to Sarina Grant and Toni Richard.

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Antonio Quiroz.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Jill Hardy and Lynda Tache.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Michelle Lewett, Ralph Toddre, Mahin Daneshi, Fereydon Arya, Sepideh Arya and Michelle Scott-Lewing.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Erik Lovass.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Philip E. Hacker, Martha Sumpter, Ross Barnett, Philip C. Hacker, Shannon Sumpter, Charles Sumpter and Sharon Bowman.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to Ralph Toddre.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Herah Osborne and Jackie Ulrey.

On request of Senator Rhoads, the privilege of the Floor of the Senate Chamber for this day was extended to Cory Ward, Derrick Ward and Sharon Shaffer.

On request of Senator Settelmeyer, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Grace Community Homeschool: John Milby, Kate Milby, Nathanael Milby, Calvin Milby, Emma Milby, Katie Lynch, Dakota Lynch, Megan Clark, Mikaela Clark, Blake Clark, Ethan Clark, Trina Taylor, Levi Taylor, KatyRuth Taylor, Seth Taylor, Jude Taylor, Estella Taylor, Enoch Taylor, Ingrid Jarrett, Isaiah Jerrett, Sarah Jerrett, Mindy Funk, Sterling Funk, Haley Funk, Audrey Funk, Margo Wilhelm, Katlyn Wilhelm, Megan Wilhelm, Vicki Shepard, Grace Shepard, Erica Riley, Andrew Riley, Jackson Riley and Sean Riley.

On request of Senator Wiener, the privilege of the Floor of the Senate Chamber for this day was extended to former Senator Joe Neal, Caroline Byerman, Amanda Byerman and Will Byerman.

Senator Horsford moved that the Senate adjourn until Wednesday, May 18, 2011, at 11:30 a.m.

Motion carried.

Senate adjourned at 8:56 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND FIRST DAY

CARSON CITY (Wednesday), May 18, 2011

Senate called to order at 11:46 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Christopher Amen.

Almighty God, You grant us government in order to protect citizens.

Grant Your mercy and grace upon our leaders that they may serve to protect all citizens.

Give us faith to receive the gifts You have provided us with joy, and strength to receive shortcomings so that we may be stewards of Your gifts and receive them only as You provide them through Jesus Christ, our Lord.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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 Assembly Bills Nos. 253, 254, 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 were referred Assembly Bills Nos. 117, 318, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MO DENIS, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 192, 276, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 17, 410, 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 Assembly Bill No. 534, 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 Assembly Bills Nos. 29, 154, 170, 362, 533, 535, 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. 13, 56, 72, 78, 135, 143, 213, 246, 292, 317, 373, 564, 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 was referred Assembly Bill No. 313, 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 were referred Senate Bill No. 206; Assembly Bills Nos. 76, 365, 477, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Revenue, to which was referred Assembly Bill No. 500, has had the same under consideration, and begs leave to report the same back with the recommendation: Re-refer to the Committee on Finance.

SHEILA LESLIE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 16, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 14, 35, 51, 229; Senate Joint Resolution No. 8.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 98, 100, 137, 160, 483.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 10.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 76 to Assembly Bill No. 30; Senate Amendment No. 552 to Assembly Bill No. 36.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 17, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 471 to Assembly Bill No. 62; Senate Amendment No. 470 to Assembly Bill No. 203; Senate Amendment No. 560 to Assembly Bill No. 211; Senate Amendment No. 550 to Assembly Bill No. 214; Senate Amendment No. 569 to Assembly Bill No. 215.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 1.

Resolution read.

Senator Manendo moved the adoption of the resolution.

Remarks by Senator Manendo.

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

Senate Concurrent Resolution No. 1 expresses the Legislature's support for the Pine Forest Wilderness Study Area Working Group, which was commissioned by the Board of County Commissioners of Humboldt County to evaluate the Blue Lake and Alder Creek wilderness

study areas and to make findings and develop recommendations for the Board to forward to the Nevada congressional delegation.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

By Senators Kieckhefer, Brower, Breeden, Cegavske, Copening, Denis, Gustavson, Halseth, Hardy, Horsford, Kihuen, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settelmeyer, Wiener; Assemblymen Anderson, Aizley, 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, Oceguera, Ohrenschall, Pierce, Segerblom, Sherwood, Smith, Stewart and Woodbury:

Senate Concurrent Resolution No. 11—Memorializing career military officer Colonel Jerry Bussell (Retired).

WHEREAS, The members of the Nevada Legislature mourn the passing on October 18, 2010, of career military officer Colonel Jerry Bussell (Retired); and

WHEREAS, Born July 31, 1943, in Parsons, Tennessee, to farmers of modest means, Jerry moved to Las Vegas at the age of 15 and later attended the University of Tennessee at Martin, where he entered the Reserve Officer Training Corps and received a bachelor of science degree and a Regular Army commission in 1967; and

WHEREAS, Colonel Bussell went on to build a stellar military career and to become a staunch supporter of education, two subjects about which he was passionate; and

WHEREAS, After proudly serving in Vietnam and achieving the rank of Captain, Colonel Bussell transferred back to Las Vegas because of an illness in his family, and in 1972, he resigned his Regular Army commission to join the Nevada Army National Guard, rising to the rank of full Colonel in 1987; and

WHEREAS, In 1985, then Lieutenant Colonel Bussell directed a 181-vehicle convoy in 110 degree heat between Henderson, Nevada, and Fort Irwin, California, a 300-mile round-trip through the Mojave Desert, causing Soviet Union intelligence to reassess the strength and training of American reserve units and earning him the Draper Armor Leadership Award, and for an unprecedented 2 consecutive years, his unit received the most coveted award in Armor, the Goodrich Riding Trophy, and both awards were attributed to his great leadership skills; and

WHEREAS, After retiring from the military in 1993, Jerry pursued his love of golf until called back into service by Governor Kenny Guinn in 2002 to serve as Special Advisor for Homeland Security, then as Chair of the Nevada Commission on Homeland Security, and the Colonel made it his mission every day to make the State a safer place than it was the day before following the terrorist attacks of September 11, 2001; and

WHEREAS, Colonel Bussell had the heart and mind of a warrior and, with one of his lifelong missions being to improve the lives of soldiers, had the opportunity to combine his military expertise with his enthusiasm for education when he became the Executive Director of Operations to implement the Telemedicine and Advanced Technology Research Center grant for the Division of Educational Outreach of the University of Nevada, Las Vegas, where his team developed a blended-learning approach to improve the military's Combat Life Saving training and methods for training all soldiers to treat battlefield injuries, thus saving the lives of many of those injured during combat; and

WHEREAS, The Colonel was key in the establishment of the Nevada Patriot Fund (now the Nevada Military Support Alliance) which provides personal and financial assistance to the families of Nevada servicemen and women killed in the line of duty; and

WHEREAS, In addition to the numerous military awards he received, Colonel Bussell received the 2010 Distinguished Nevadan award, one of the highest honors bestowed by the Nevada System of Higher Education, for his many contributions to education in this State; and

WHEREAS, Colonel Bussell had been planning to run for the Board of Regents because he loved the University of Nevada, Las Vegas, so much that he thought it was the perfect way to contribute and to put his leadership skills and expertise to work; 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 Colonel Jerry Bussell's wife Pat Lundvall, who said of him that "He was charming, the most charismatic man you'd ever meet"; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Pat, Colonel Bussell's cherished wife of 28 years.

Senator Kieckhefer moved the adoption of the resolution.

Remarks by Senator Kieckhefer, Mr. President and Senator Brower.

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

SENATOR KIECKHEFER:

Thank you, Mr. President. We have an opportunity today to honor a distinguished man, a distinguished Nevadan and a distinguished husband.

I would like to share with you what Colonel Bussell's wife, Pat, had to say about her husband. She said he was handsome, dashing, charismatic, bold, a leader, mischievous, respectful, a soldier, kindhearted, generous, brash, worldly, engaging, ambitious, accomplished, proud, strong, fearless, supportive, evolutionary, exacting, ceremonious, patriotic, and encouraging. These descriptors applied to Jerry when she met him on October 18, 1982 and they described him to the day that he passed on October 18, 2010.

When they met, Jerry, then a Major, was attending the Sixth Army Annual Conference being held in Lincoln, Nebraska. She was a student at the University of Nebraska finishing a master's degree. The attraction was instant. They were engaged nine weeks later and married soon thereafter. Chaplain Ashley Hall counseled and married them. He advised them and made them promise to tell the other, every day, that they loved each other. Jerry kept that promise. She said Jerry remains the most handsome man she has ever met, and he loved being told that.

Their story makes me think about how many reasons there are for us to love the people we love. I know that was true for Pat and for the many people who loved Jerry.

Thank you, Pat, for being here today and for Nevada, I want to express how sorry we are for your loss and to say what a loss his passing is for the State of Nevada. After the events of September 11, 2001, our State tried to identify how we were going to respond to a potential act of terror knowing we could be a target because of the lifestyle we love in this State. Governor Guinn chose Colonel Bussell to protect our State by reviewing our security and our response. He was the person the Governor trusted with the lives and the safety of all Nevadans. He performed that duty admirably and well. He performed a great service to the State of Nevada. We have a lot to be thankful for.

MR. PRESIDENT:

Pat, this is a happy day, but a sad day, too. I loved Jerry, too. I traveled thousands of miles on Nevada's roads with him. He was a great friend, a strapping man and a great Nevadan and a great American. Thank you. We are all with you.

SENATOR BROWER:

Thank you, Mr. President. I would like to offer a welcome to Pat and to everyone who is here today to remember Jerry.

Jerry was everything mentioned earlier. He was charming, charismatic, and a good friend. He was a constituent of mine when I was in the Assembly, as Pat is now. He was a Vietnam veteran.

As a country, we went a long time without saying much about our Vietnam veterans. We, as a country, have made up for that in recent years. That is one of the things I loved the most about

Jerry. We are losing our World War II veterans at an incredible rate and we are losing our Vietnam veterans as well. I encourage all of us to remember the sacrifices that our Vietnam veterans made as exemplified by Jerry. Keep all of them in our prayers.

Resolution adopted.

Senator Kieckhefer moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 11 be immediately transmitted to the Assembly.

Motion carried unanimously.

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

Senate in recess at 12:06 p.m.

SENATE IN SESSION

At 12:17 p.m.

President Krolicki presiding.

Quorum present.

Senator Leslie moved that Assembly Bill No. 500 be re-referred to the Committee on Finance.

Motion carried.

Senator McGinness moved that Assembly Bill No. 282 be taken from the Second Reading File and placed on the Secretary's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 98.

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

Motion carried.

Assembly Bill No. 100.

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

Motion carried.

Assembly Bill No. 137.

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

Motion carried.

Assembly Bill No. 160.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 483.

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

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 12:27 p.m.

SENATE IN SESSION

At 12:29 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator McGinness moved that Assembly Bill No. 282 be taken from the Secretary's desk and placed on the Second Reading File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 442.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 583.

"SUMMARY—Establishes the Fund for State Park Interpretative and Educational Programs and Operation of Concessions. (BDR 35-1210)"

"AN ACT relating to state parks; creating the Fund for State Park Interpretative and Educational Programs and Operation of Concessions; authorizing the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to establish certain concessions within state parks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Division of State Parks of the State Department of Conservation and Natural Resources is funded by grants and gifts of money, fees and legislative appropriations. (NRS 407.075, 407.0762, 407.077) **Section 2** of this bill authorizes the Administrator of the Division to establish concessions within the boundaries of any state park the revenue from which is required to be deposited in the Fund for State Park Interpretative and Educational Programs and Operation of Concessions. **Section 1** of this bill creates the Fund for State Park Interpretative and Educational Programs and Operation of Concessions for the use of the Division and provides for the expenditure of money from the Fund.

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

Section 1. Chapter 407 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Fund for State Park Interpretative and Educational Programs and Operation of Concessions is hereby created as an enterprise fund for the use of the Division to receive all revenues derived from sales of concessions and vending machines operated within state parks and other special revenue generating activities.

2. Money in the Fund must be invested as the money in other state funds is invested. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. Claims against the Fund must be paid as other claims against the State are paid.

3. In addition to any expenditure required by subsection 4, the cost of any goods and services used for the sale of concessions and the coordination of special revenue generating activities must be expended from the Fund.

4. ~~[Upon]~~ Money deposited in the Fund must be expended:

(a) By the Administrator, upon approval by the Director, ~~[the Administrator shall expend money deposited in the Fund]~~ for special interpretative or educational programs and special park projects that enhance the interpretative and educational mission of the Division ~~[.]~~ ; or

(b) For any other purpose authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session.

5. Any balance remaining in the Fund does not revert to the State General Fund at the end of any fiscal year.

Sec. 2. NRS 407.065 is hereby amended to read as follows:

407.065 1. The Administrator, subject to the approval of the Director:

(a) Except as otherwise provided in this paragraph, may establish, name, plan, operate, control, protect, develop and maintain state parks, monuments and recreational areas for the use of the general public. The name of an existing state park, monument or recreational area may not be changed unless the Legislature approves the change by statute.

(b) Shall protect state parks and property controlled or administered by the Division from misuse or damage and preserve the peace within those areas. The Administrator may appoint or designate certain employees of the Division to have the general authority of peace officers.

(c) May allow multiple use of state parks and real property controlled or administered by the Division for any lawful purpose, including, but not limited to, grazing, mining, development of natural resources, hunting and fishing, in accordance with such regulations as may be adopted in furtherance of the purposes of the Division.

(d) Shall impose and collect reasonable fees for entering, camping and boating in state parks and recreational areas. The Division shall issue, upon

application therefor and proof of residency and age, an annual permit for entering, camping and boating in all state parks and recreational areas in this State to any person who is 65 years of age or older and has resided in this State for at least 5 years immediately preceding the date on which the application is submitted. The permit must be issued without charge, except that the Division shall charge and collect an administrative fee for the issuance of the permit in an amount sufficient to cover the costs of issuing the permit.

(e) May conduct and operate such special services as may be necessary for the comfort and convenience of the general public, and impose and collect reasonable fees for such special services.

(f) May rent or lease concessions located within the boundaries of state parks or of real property controlled or administered by the Division to public or private corporations, to groups of natural persons, or to natural persons for a valuable consideration upon such terms and conditions as the Division deems fit and proper, but no concessionaire may dominate any state park operation.

(g) May establish such capital projects construction funds as are necessary to account for the parks improvements program approved by the Legislature. The money in these funds must be used for the construction and improvement of those parks which are under the supervision of the Administrator.

(h) In addition to any concession specified in paragraph (f), may establish concessions within the boundaries of any state park to provide for the sale of food, drinks, ice, publications, sundries, gifts and souvenirs, and other such related items as the Administrator determines are appropriately made available to visitors. Any money received by the Administrator for a concession established pursuant to this paragraph must be deposited in the Fund for State Park Interpretive and Educational Programs and Operation of Concessions.

2. The Administrator:

(a) Shall issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter each state park and each recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee; and

(b) May issue an annual permit to a person who pays a reasonable fee as prescribed by regulation which authorizes the holder of the permit to enter a specific state park or specific recreational area in this State and, except as otherwise provided in subsection 3, use the facilities of the state park or recreational area without paying the entrance fee.

3. An annual permit issued pursuant to subsection 2 does not authorize the holder of the permit to engage in camping or boating, or to attend special events. The holder of such a permit who wishes to engage in camping or

boating, or to attend special events, must pay any fee established for the respective activity.

4. Except as otherwise provided in subsection 1 of NRS 407.0762 and subsection 1 of NRS 407.0765, the fees collected pursuant to paragraphs (d), (e) and (f) of subsection 1 or subsection 2 must be deposited in the State General Fund.

Sec. 3. This act becomes effective on July 1, 2011.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

Amendment No. 583 to Senate Bill No. 442 gives the administrator more flexibility in how these funds are expended.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 39.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 598.

"SUMMARY—Revises provisions governing educational personnel. (BDR 34-439)"

"AN ACT relating to educational personnel; removing the requirement that the Superintendent of Public Instruction notify a licensee by mail of the date of expiration of his or her license; requiring the Department of Education to maintain a directory of licensees on the Internet website maintained by the Department; requiring the Department to provide on a monthly basis an electronic file with a list of each licensed employee whose license will expire to the board of trustees of the school district that employs the person; ~~[requiring]~~ **authorizing** the board of trustees of the school district to notify each licensee of the date of expiration of his or her license; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill removes the requirement that the Superintendent of Public Instruction provide written notice, by first class mail, to each person who is licensed by the Superintendent of the date on which his or her license expires. This bill also requires the Department of Education to: (1) maintain a directory of the name of each person who is licensed and the date on which his or her license expires; (2) make that information available to licensed educational personnel and to the general public on the Department's Internet website; and (3) provide to the board of trustees of each school district, each calendar month, an electronic file with a list of each licensed employee who is employed by the board of trustees and whose license will expire within the 9 months immediately following that calendar month. This bill further ~~[requires]~~ **authorizes** the board of trustees of each school district to notify

each licensed employee identified in the list of the date on which his or her license will expire. ~~[Such notification]~~ **If the board of trustees of a school district provides such notice, the notice** must be provided not later than 6 months before the date of expiration.

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

Section 1. NRS 391.042 is hereby amended to read as follows:

391.042 ***1.*** The ~~[Superintendent of Public Instruction]~~ ***Department*** shall ~~[provide written notice to each person]~~ ***:***

(a) Maintain a directory of the name of each person who holds a license issued pursuant to this chapter ~~[of]~~ ***and*** the date on which ~~[the]~~ ***his or her*** license expires ~~[. The written notice must be mailed, by first-class mail, to the last known address of the licensee, as reflected in the records of the Superintendent, not less than 6 months and not more than 1 year before the date of expiration.]~~ ***;***

(b) Make the directory readily available to licensed educational personnel and to the general public on the Internet website maintained by the Department; and

(c) Provide to the board of trustees of each school district, at the end of each calendar month, an electronic file with a list of each licensed employee who is employed by the board of trustees and whose license will expire within the 9 months immediately following that calendar month.

2. The board of trustees of a school district ~~*[shall]*~~ ***may notify each licensed employee identified in the list received pursuant to paragraph (c) of subsection 1 of the date on which his or her license will expire***. ~~*[The]*~~ ***If the board of trustees of a school district provides notice to a licensed employee pursuant to this subsection, the notice must be provided not later than 6 months before the date of expiration of the license.***

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. 598 to Assembly Bill No. 39 revises a portion of the bill that would have required school districts to provide notice about the prospective expiration of the license of a licensed educator; instead, school districts are authorized to provide this notification.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 40.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 599.

"SUMMARY—Revises the requirements concerning background investigations of certain applicants for employment or contracts with private postsecondary educational institutions. (BDR 34-442)"

"AN ACT relating to private postsecondary educational institutions; revising the requirements concerning background investigations of certain applicants for employment or contracts with private postsecondary educational institutions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain persons who apply for employment or a contract with a private postsecondary educational institution to submit a completed fingerprint card that must be taken by an agency of law enforcement and authorization for the postsecondary institution to conduct an investigation of the background of the applicants. (NRS 394.465) This bill allows the fingerprint card and authorization to be submitted electronically to the Central Repository for Nevada Records of Criminal History. This bill also exempts an applicant from the background check if **: (1)** the applicant will provide instruction from a location outside this State through a licensed program of distance education ~~[.]~~ **; (2) the applicant previously underwent a background check; and (3) the Administrator of the Commission on Postsecondary Education determines that an additional background check is not necessary.**

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

Section 1. NRS 394.465 is hereby amended to read as follows:

394.465 1. Except as otherwise provided in subsection ~~[4,]~~ ***6,*** before a postsecondary educational institution employs or contracts with a person:

(a) To occupy an instructional position;

(b) To occupy an administrative or financial position, including a position as school director, personnel officer, counselor, admission representative, solicitor, canvasser, surveyor, financial aid officer or any similar position; or

(c) To act as an agent for the institution,

➥ the applicant must submit to the Administrator ~~[completed fingerprint cards]~~ ***the information set forth in subsection 2.***

2. The applicant must submit to the Administrator:

(a) A complete set of fingerprints taken by a law enforcement agency and ~~[a form]~~ ***written permission*** authorizing ~~[an investigation of the applicant's background and the submission of a complete set of]~~ the ***Administrator to submit the*** applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for ~~[its report and for]~~ submission to the Federal Bureau of Investigation for ~~[its]~~ ***a*** report ~~[. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the Administrator. The applicant's fingerprints must be taken by an agency of law enforcement.~~

~~2.]~~ ***on the applicant's background and to such other law enforcement agencies as the Administrator deems necessary; or***

(b) Written verification, on a form prescribed by the Administrator, stating that the fingerprints of the applicant were taken and directly

forwarded electronically or by another means to the Central Repository and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints 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 Administrator deems necessary.

3. The Administrator may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to paragraph (b) 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 Administrator deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Administrator deems necessary.

4. Except as otherwise provided in NRS 239.0115, the Administrator shall keep the results of the investigation confidential.

~~[3.]~~ ***5***. The applicant shall pay the cost of the investigation.

~~[4.]~~ ***6.*** An applicant is not required to satisfy the requirements of ~~[subsection 1]~~ ***this section*** if the applicant:

(a) Is licensed by the Superintendent of Public Instruction;

(b) Is an employee of the United States Department of Defense;

(c) Is a member of the faculty of an accredited postsecondary educational institution in another state who is domiciled in a state other than Nevada and is present in Nevada for a temporary period to teach at a branch of that accredited institution; ~~[or]~~

(d) ***Is an instructor who provides instruction from a location outside this State through a program of distance education for a postsecondary educational institution licensed by the Commission*** ~~[.]~~ ***who previously underwent an investigation of his or her background and the Administrator determines that an additional investigation is not necessary; or***

(e) Has satisfied the requirements of subsection 1 within the immediately preceding 5 years.

7. As used in this section, "distance education" means instruction delivered by means of video, computer, television, or the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the student receiving the instruction are separated geographically.

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.

Amendment No. 599 to Assembly Bill No. 40 provides that distance education instructors for programs licensed by the Commission on Postsecondary Education are not required to undergo a background investigation if they have already had such an investigation, and the administrator of the Commission determines that an additional investigation is not needed.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that the Secretary of the Senate dispense with reading the histories of all bills and resolutions for the remainder of the Legislative Session.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 113.

Bill read second time and ordered to third reading.

Assembly Bill No. 196.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 571.

"SUMMARY—Revises provisions governing the collection of fines, administrative assessments **[,]** **and** fees ~~[and restitution]~~ owed by certain convicted persons. (BDR 14-557)"

"AN ACT relating to the State Controller; authorizing a county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning the responsibility of collecting fines, administrative assessments **[,]** **and** fees ~~[and restitution]~~ from certain criminal defendants; making various changes relating to the collection of fines, administrative assessments **[,]** **and** fees ~~[and restitution]~~ from certain criminal defendants; making various changes relating to debt collection between this State and the Federal Government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that if a fine, administrative assessment, fee or restitution imposed upon a defendant is delinquent: (1) the defendant is liable for a collection fee; (2) the entity responsible for collecting the delinquent amount may report the delinquency to credit reporting agencies, may contract with a collection agency and may request that the court take appropriate action; and (3) the court may request that a prosecuting attorney undertake collection efforts, may order the suspension of the driver's license of the defendant and may, in the case of a delinquent fine or administrative assessment, order that the defendant be confined in the appropriate prison, jail or detention facility. (NRS 176.064)

Sections 7 and 11 of this bill require the district court to forward to the county treasurer the necessary information for the collection of the debt of a criminal defendant. If a county is unable to collect the debt, **sections 7,**

11 and 14 of this bill authorize the county treasurer to enter into a cooperative agreement with the Office of the State Controller for the purpose of assigning to the Office of the State Controller the responsibility for collecting the debt.

Under existing law, a judgment entered by the court ordering a defendant to pay a fine, administrative assessment or restitution constitutes a lien. (NRS 176.275) **Section 8** of this bill requires a district court judge to inform a defendant at the time of sentencing of the provisions of NRS 176.275, and that if the lien is not satisfied, collection efforts may be undertaken against the defendant.

Sections 9 and 12 of this bill require a defendant to pay costs and fees associated with the efforts to collect a debt.

Section 14 authorizes the Office of the State Controller to enter into a cooperative agreement with a governmental entity for the purpose of establishing the Office of the State Controller as the collection agent for the governmental entity.

Section 15 of this bill authorizes the State Controller or his or her designee to enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness.

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. Chapter 176 of NRS is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this act.

Sec. 7. ***1. If a fine, administrative assessment [,] or fee [or restitution] is imposed pursuant to this chapter upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court entering the judgment of conviction shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fine, administrative assessment [,] or fee . [or restitution.] The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fine, administrative assessment [,] or fee . [or restitution.]***

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fine, administrative assessment [,] or fee [or restitution] after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fine, administrative assessment [,] or fee [or restitution] through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For the purposes of this section, the information necessary to collect the fine, administrative assessment ~~[,]~~ or fee ~~[or restitution]~~ shall be considered and limited to:

(a) The name of the defendant;

(b) The date of birth of the defendant;

(c) The social security number of the defendant;

(d) The last known address of the defendant; and

(e) The nature and the amount of money owed by the defendant.

4. If the Office of the State Controller is successful in collecting the fine, administrative assessment ~~[,]~~ or fee , ~~[or restitution,]~~ the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fine, administrative assessment ~~[,]~~ or fee ~~[or restitution]~~ pursuant to section 9 of this act.

5. Any money collected pursuant to subsection 4 must be deposited in the State Treasury, pursuant to NRS 176.265.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fine, administrative assessment ~~[,]~~ or fee ~~[or restitution]~~ pursuant to this section ~~[,]~~ has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 8. *If a district court imposes a fine, administrative assessment ~~[,]~~ or fee ~~[or restitution]~~ upon a defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill of a felony or gross misdemeanor, the district court judge shall advise the defendant at the time of sentencing that:*

1. The judgment constitutes a lien, pursuant to NRS 176.275; and

2. If the defendant does not satisfy the lien, collection efforts may be undertaken against the defendant pursuant to the laws of this State.

Sec. 9. *1. A defendant who pleads guilty or guilty but mentally ill or is found guilty or guilty but mentally ill who owes a fine, administrative assessment ~~[,]~~ or fee , ~~[or restitution,]~~ pursuant to section 7 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fine, administrative assessment ~~[,]~~ or fee : ~~[or restitution:]~~*

(a) The costs and fees actually incurred in collecting the fine, administrative assessment ~~[,]~~ or fee : ~~[or restitution,]~~ and

(b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fine, administrative assessment ~~[,]~~ ***or fee*** ~~[or restitution]~~ ***assigned to the county treasurer or other office assigned by the county to make collections.***

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fine, administrative assessment ~~[,]~~ ***or fee*** ~~[or restitution]~~ ***or $50,000, whichever is less.***

Sec. 10. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 11 and 12 of this act.

Sec. 11. ***1. If a district court orders a defendant to pay for expenses incurred by the county or State in providing the defendant with an attorney pursuant to NRS 178.3975 or makes an execution on the property of the defendant pursuant to NRS 178.398, the district court entering the judgment shall forward to the county treasurer or other office assigned by the county to make collections the information necessary to collect the fee. The county treasurer or other office assigned by the county to make collections is responsible for such collection efforts and has the authority to collect the fee.***

2. If the county treasurer or other office assigned by the county to make collections is unable to collect the fee after 60 days, the county treasurer may assign to the Office of the State Controller the responsibility for collection of the fee through a cooperative agreement pursuant to section 14 of this act, so long as the Office of the State Controller is willing and able to make such collection efforts.

3. If the county treasurer and the Office of the State Controller enter into a cooperative agreement pursuant to section 14 of this act, the county treasurer or other county office assigned by the county to make collections shall forward to the Office of the State Controller the necessary information. For purposes of this section, the information necessary to collect the fee shall be considered and limited to:

(a) The name of the defendant;

(b) The date of birth of the defendant;

(c) The social security number of the defendant;

(d) The last known address of the defendant; and

(e) The nature and the amount of money owed by the defendant.

4. If the Office of the State Controller is successful in collecting the fee, the money collected must be returned to the originating county, minus the costs and fees actually incurred in collecting the fee.

5. Any money collected must be paid to the county or state public defender's office which bore the expense and which was not reimbursed by another governmental agency, pursuant to NRS 178.3975.

6. Any record created pursuant to subsection 3 that contains personal identifying information shall not be considered a public record pursuant to NRS 239.010 and must be treated pursuant to NRS 239.0105.

7. Unless otherwise prohibited by law, the entity responsible for collecting the fee pursuant to this section, has the authority to compromise the amount to be collected for the purpose of satisfying the judgment.

Sec. 12. ***1. A defendant who owes a fee pursuant to section 11 of this act, must be assessed by and pay to the county treasurer or other office assigned by the county to make collections, the following costs and fees if the county treasurer or other office assigned by the county to make collections is successful in collecting the fee:***

(a) The costs and fees actually incurred in collecting the fee; and

(b) A fee payable to the county treasurer in the amount of 2 percent of the amount of the fee assigned to the county treasurer or other office assigned by the county to make collections.

2. The total amount of the costs and fees required to be collected pursuant to subsection 1 must not exceed 35 percent of the amount of the fee or $50,000, whichever is less.

Sec. 13. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 14 and 15 of this act.

Sec. 14. ***The Office of the State Controller may act as the collection agent for any governmental entity pursuant to a cooperative agreement entered into between the Office of the State Controller and the governmental entity.***

Sec. 15. ***The State Controller or his or her designee may enter into a reciprocal agreement with the Federal Government for the collection and offset of indebtedness, pursuant to which the State will offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to the departments, agencies or institutions of this State, non tax related debt owed to the Federal Government, and the Federal Government will offset from federal payments to vendors and taxpayers debt owed to the State of Nevada.***

Sec. 16. 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.

Amendment No. 571 to Assembly Bill No. 196 excludes restitution as a collectible item, but retains administrative assessments, fees, and fines for which collection procedures are to be established.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 233.

Bill read second time and ordered to third reading.

Assembly Bill No. 249.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 577.

"SUMMARY—Makes various changes pertaining to certain court reporters. (BDR 1-235)"

"AN ACT relating to court reporters; making various changes pertaining to the appointment, duties and work product of court reporters in the district courts and justice courts of this State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill provides that a business organization appointed to provide to a district court the services of a certified court reporter must be licensed by the Certified Court Reporters' Board of Nevada. (NRS 3.320) **Section 2** of this bill clarifies that an official reporter pro tempore of a district court is appointed rather than employed and, like the official reporter he or she replaces, does not have a fixed term of employment. (NRS 3.320, 3.340) **Section 3** of this bill states that prima facie evidence of the testimony and proceedings in a district court is provided by the transcript and not the report of the official reporter. (NRS 3.360) **Section 4** of this bill makes various changes with respect to the compensation of the official reporter of a district court. (NRS 3.370) **Section 5** of this bill provides that, when sound recording equipment is used to record proceedings in a district court and a transcript is subsequently made: (1) the person who transcribes the recording shall subscribe to an oath that he or she has truly and correctly transcribed the proceedings as recorded; and (2) the person who operates the sound recording equipment shall subscribe to an oath that the sound recording is a true and accurate recording of the proceedings and, in the event of an error, malfunction or other problem relating to the sound recording equipment or the sound recording, report that error, malfunction or problem to the court. **Section 5 also requires a copy of a sound recording, if requested, to be provided with a requested transcript. The cost for providing the recording must not exceed the actual cost of producing the recording and must be paid by the party who requests the recording.** (NRS 3.380) **Section 6** of this bill states that, with regard to proceedings in a justice court, compensation for the preparation of a transcript is to be deposited with the certified court reporter and not with the deputy clerk of the court. (NRS 4.410) **Section 7** of this bill provides that: (1) the sound recording of each proceeding in justice court must be preserved until at least 1 year, instead of 30 days, after the time for filing an appeal expires; and (2) with respect to certain criminal proceedings in a justice court, sound recordings must be preserved for a period of at least 8 years. (NRS 4.420)

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

Section 1. NRS 3.320 is hereby amended to read as follows:

3.320 1. The judge or judges of any district court may appoint, subject to the provisions of this chapter and other laws as to the qualifications and examinations of the appointee, one certified court reporter, to be known as

official reporter of the court or department and to hold office during the pleasure of the judge appointing the official reporter. The appointee may be any business organization ***licensed by the Board*** if the person representing ~~[it,]~~ ***the business organization,*** who actually performs the reporting service, is a certified court reporter.

2. The official reporter, or any one of them if there are two or more, shall:

(a) At the request of either party or of the court in a civil action or proceeding, and on the order of the court, the district attorney or the attorney for the defendant in a criminal action or proceeding, make a record of all the testimony, the objections made, the rulings of the court, the exceptions taken, all arraignments, pleas and sentences of defendants in criminal cases, and all statements and remarks made by the district attorney or judge, and all oral instructions given by the judge; and

(b) ~~[If]~~ ***When*** directed by the court or requested by either party, within such reasonable time after the trial of the case as may be designated by law or, in the absence of any law relating thereto, by the court, ~~[write out the record, or such specific portions thereof as may be requested, in plain and legible longhand, or by typewriter or other printing machine.]~~ ***transcribe the record into a written transcript.*** The reporter shall certify ~~[to that copy as being]~~ ***that the action or proceeding was*** correctly reported and transcribed and, when directed by the law or court, shall file ~~[it]~~ ***the written transcript*** with the clerk of the court.

3. As used in this section, "Board" means the Certified Court Reporters' Board of Nevada, created by NRS 656.040.

Sec. 2. NRS 3.340 is hereby amended to read as follows:

3.340 The official reporter of any district court shall attend to the duties of office in person except when excused for good and sufficient reason by order of the court, which order shall be entered upon the minutes of the court. Employment in his or her professional capacity elsewhere shall not be deemed a good and sufficient reason for such excuse. When the official reporter of any court has been excused in the manner provided in this section, the court may designate an official reporter pro tempore who shall perform the same duties and receive the same compensation during the term of his or her ~~[employment]~~ ***appointment*** as the official reporter.

Sec. 3. NRS 3.360 is hereby amended to read as follows:

3.360 The ~~[report]~~ ***transcript*** of the official reporter, or official reporter pro tempore, of any court, duly appointed and sworn, when transcribed and certified as being a correct transcript of the testimony and proceedings in the case, is prima facie evidence of such testimony and proceedings.

Sec. 4. NRS 3.370 is hereby amended to read as follows:

3.370 1. Except as otherwise provided in subsection 3, for his or her services the official reporter or reporter pro tempore is entitled to the following compensation:

(a) For being available to report civil and criminal testimony and proceedings when the court is sitting during traditional business hours on any day except Saturday or Sunday, $170 per day, to be paid by the county as provided in subsection 4.

(b) For being available to report civil and criminal testimony and proceedings when the court is sitting beyond traditional business hours or on Saturday or Sunday:

(1) If the reporter has been available to report for at least 4 hours, $35 per hour for each hour of availability; or

(2) If the reporter has been available to report for fewer than 4 hours, a pro rata amount based on the daily rate set forth in paragraph (a),

➥ to be paid by the county as provided in subsection 4.

(c) For transcription:

(1) Except as otherwise provided in subparagraph (2), for the original draft and any copy to be delivered:

(I) Within 24 hours after it is requested, $7.50 per page for the original draft and one copy, and $2 per page for each additional copy;

(II) Within 48 hours after it is requested, $5.62 per page for the original draft and one copy, and $1.50 per page for each additional copy;

(III) Within 4 days after it is requested, $4.68 per page for the original draft and one copy, and $1.25 per page for each additional copy; or

(IV) More than 4 days after it is requested, $3.55 per page for the original draft and one copy, and 55 cents per page for each additional copy.

(2) For civil litigants who are ordering the original draft and are represented by a nonprofit legal corporation or a program for pro bono legal assistance, for the original draft and any copy to be delivered:

(I) Within 24 hours after it is requested, $5.50 per page and $1.10 per page for each additional copy;

(II) Within 48 hours after it is requested, $4.13 per page and 83 cents per page for each additional copy;

(III) Within 4 days after it is requested, $3.44 per page and 69 cents per page for each additional copy; or

(IV) More than 4 days after it is requested, $2.75 per page and 55 cents per page for each additional copy.

(3) For any party other than the party ordering the original draft, for the copy of the draft to be delivered:

(I) Within 24 hours after it is requested, $1.10 per page;

(II) Within 48 hours after it is requested, 83 cents per page;

(III) Within 4 days after it is requested, 69 cents per page; or

(IV) More than 4 days after it is requested, 55 cents per page.

(d) For reporting all civil matters, in addition to the compensation provided in paragraphs (a) and (b), $30 for each hour or fraction thereof actually spent, to be taxed as costs pursuant to subsection 5.

(e) For providing an instantaneous translation of testimony into English which appears on a computer that is located at a table in the courtroom where the attorney who requested the translation is seated:

(1) Except as otherwise provided in this subparagraph, in all criminal matters in which a party requests such a translation, in addition to the compensation provided pursuant to paragraphs (a) and (b), $140 for the first day and $90 per day for each subsequent day from the party who makes the request. This additional compensation must be paid by the county as provided pursuant to subsection 4 only if the court issues an order granting the translation service to the prosecuting attorney or to an indigent defendant who is represented by a county or state public defender.

(2) In all civil matters in which a party requests such a translation, in addition to the compensation provided pursuant to paragraphs (a), (b) and (d), $140 for the first day and $90 per day for each subsequent day, to be paid by the party who requests the translation.

(f) For providing a diskette containing testimony prepared from a translation provided pursuant to paragraph (e):

(1) Except as otherwise provided in this subparagraph, in all criminal matters in which a party requests the diskette and the reporter agrees to provide the diskette, in addition to the compensation provided pursuant to paragraphs (a), (b) and (e), $1.50 per page of the translation contained on the diskette from the party who makes the request. This additional compensation must be paid by the county as provided pursuant to subsection 4 only if the court issues an order granting the diskette to the prosecuting attorney or to an indigent defendant who is represented by a county or state public defender.

(2) In all civil matters in which a party requests the diskette and the reporter agrees to provide the diskette, in addition to the compensation provided pursuant to paragraphs (a), (b), (d) and (e), $1.50 per page of the translation contained on the diskette, to be paid by the party who requests the diskette.

2. For the purposes of subsection 1, a page is a sheet of paper 8 1/2 by 11 inches ~~[.]~~ ***and does not include a condensed transcript.*** The left margin must not be more than 1 1/2 inches from the left edge of the paper. The right margin must not be more than three-fourths of an inch from the right edge of the paper. Each sheet must be numbered on the left margin and must contain at least 24 lines of type. The first line of each question and of each answer may be indented not more than five spaces from the left margin. The first line of any paragraph or other material may be indented not more than 10 spaces from the left margin. There must not be more than one space between words or more than two spaces between sentences. The type size must not be larger than 10 characters per inch. The lines of type may be double spaced or one and one-half spaced.

3. If the court determines that the services of more than one reporter are necessary to deliver transcripts on a daily basis in a criminal proceeding, each reporter is entitled to receive:

(a) The compensation set forth in paragraphs (a) and (b) of subsection 1 and subparagraph (1) of paragraph (e) of subsection 1, as appropriate; and

(b) Compensation of $7.50 per page for the original draft and one copy, and $2 per page for each additional copy for transcribing a proceeding of which the transcripts are ordered by the court to be delivered on or before the start of the next day the court is scheduled to conduct business.

4. The compensation specified in paragraphs (a) and (b) of subsection 1, the compensation for transcripts in criminal cases ordered by the court to be made, the compensation for transcripts in civil cases ordered by the court pursuant to NRS 12.015, the compensation for transcripts for parents or guardians or attorneys of parents or guardians who receive transcripts pursuant to NRS 432B.459, the compensation in criminal cases that is ordered by the court pursuant to subparagraph (1) of paragraph (e) and subparagraph (1) of paragraph (f) of subsection 1 and the compensation specified in subsection 3 must be paid out of the county treasury upon the order of the court. When there is no official reporter in attendance and a reporter pro tempore is appointed, his or her reasonable expenses for traveling and detention must be fixed and allowed by the court and paid in the same manner. The respective district judges may, with the approval of the respective board or boards of county commissioners within the judicial district, fix a monthly salary to be paid to the official reporter in lieu of per diem. The salary, and also actual traveling expenses in cases where the reporter acts in more than one county, must be prorated by the judge on the basis of time consumed by work in the respective counties and must be paid out of the respective county treasuries upon the order of the court.

5. Except as otherwise provided in subsection 4, in civil cases, the compensation prescribed in paragraph (d) of subsection 1 and for transcripts ordered by the court to be made must be paid by the parties in equal proportions, and either party may, at the party's option, pay the entire compensation. In either case, all amounts so paid by the party to whom costs are awarded must be taxed as costs in the case. The compensation for transcripts and copies ordered by the parties must be paid by the party ordering them. No reporter may be required to perform any service in a civil case until his or her compensation has been paid to him or her **.** ~~[or deposited with the clerk of the court.]~~

6. Where a transcript is ordered by the court or by any party, the compensation for ~~[it]~~ ***the transcript*** must be paid to the ~~[clerk of the court and by the clerk paid to the]~~ reporter ~~[upon]~~ ***before*** the furnishing of the transcript.

~~[7.]~~ ~~[The testimony and proceedings in an uncontested divorce action need not be transcribed unless requested by a party or ordered by the court.]~~ ~~*[If a proceeding is recorded and a transcript is requested, a copy of any sound recording must, if requested, be provided with the transcript. The cost for providing the sound recording must not exceed the actual cost of production and must be paid by the party who requests the sound recording.]*~~

Sec. 5. NRS 3.380 is hereby amended to read as follows:

3.380 1. The judge or judges of any district court may, with the approval of the board of county commissioners of any one or more of the counties comprising such district, in addition to the appointment of a court reporter as in this chapter provided, enter an order for the installation of sound recording equipment for use in any of the instances recited in NRS 3.320, for the recording of any civil and criminal proceedings, testimony, objections, rulings, exceptions, arraignments, pleas, sentences, statements and remarks made by the district attorney or judge, oral instructions given by the judge and any other proceedings occurring in civil or criminal actions or proceedings, or special proceedings whenever and wherever and to the same extent as any of such proceedings have heretofore under existing statutes been recorded by the official reporter or any special reporter or any reporter pro tempore appointed by the court.

2. For the purpose of operating such sound recording equipment, the court or judge may appoint or designate the official reporter or a special reporter or reporter pro tempore or the county clerk or clerk of the court or deputy clerk. The person so operating such sound recording equipment shall subscribe to an oath that he or she will well and truly operate the equipment so as to record all of the matters and proceedings.

3. The court may then designate the person operating such equipment or any other competent person to ~~[~~read~~]~~ ***listen to*** the recording and to transcribe ~~[~~it~~]~~ ***the recording*** into ~~[~~typewriting.~~]~~ ***written text.*** The person ~~[~~transcribing~~]~~ ***who:***

(a) Transcribes the recording shall subscribe to an oath that he or she has truly and correctly transcribed ~~[~~it.~~]~~ ***the proceedings as recorded.***

(b) Operates the sound recording equipment as described in subsection 2 shall:

(1) Subscribe to an oath that the sound recording is a true and accurate recording of the proceedings; and

(2) In the event of an error, malfunction or other problem relating to the sound recording equipment or the sound recording, report that error, malfunction or problem to the court.

4. The transcript may be used for all purposes for which transcripts have heretofore been received and accepted under then existing statutes, including transcripts of testimony and transcripts of proceedings as constituting bills of exceptions or part of the bill of exceptions on appeals in all criminal cases and transcripts of the evidence or proceedings as constituting the record on appeal in civil cases and including transcripts of preliminary hearings before justices of the peace and other committing magistrates, and are subject to correction in the same manner as transcripts under existing statutes.

5. ***If a proceeding is recorded and a transcript is requested, a copy of the sound recording must, if requested, be provided with the transcript. The cost for providing the sound recording must not exceed the actual cost of***

production and must be paid by the party who requests the sound recording.

6. In civil and criminal cases when the court has ordered the use of such sound recording equipment, any party to the action, at the party's own expense, may provide a certified court reporter to make a record of and transcribe all the matters of the proceeding. In such a case, the record prepared by sound recording is the official record of the proceedings, unless it fails or is incomplete because of equipment or operational failure, in which case the record prepared by the certified court reporter shall be deemed, for all purposes, the official record of the proceedings.

Sec. 6. NRS 4.410 is hereby amended to read as follows:

4.410 1. If the person designated to transcribe the proceedings is:

(a) Regularly employed as a public employee, the person is not entitled to additional compensation for preparing the transcript.

(b) Not regularly employed as a public employee and not a certified court reporter, the person is entitled to such compensation for preparing the transcript as the board of county commissioners determines.

(c) A certified court reporter, the person is entitled to the same compensation as set forth in NRS 3.370.

2. The compensation for transcripts and copies must be paid by the party ordering them. In a civil case, the preparation of the transcript need not commence until the compensation has been deposited with the ~~[deputy clerk of the court.]~~ ***court reporter.***

Sec. 7. NRS 4.420 is hereby amended to read as follows:

4.420 ~~[The]~~

1. Except as otherwise provided in this section:

(a) The sound recording of each proceeding in justice court must be preserved until at least ~~[30 days]~~ ***1 year*** after the time for filing an appeal expires.

(b) With respect to a proceeding in justice court that involves a misdemeanor for which enhanced penalties may be imposed, a gross misdemeanor or a felony, the sound recording of the proceeding must be preserved for at least 8 years after the time for filing an appeal expires.

2. If no appeal is taken, the justice of the peace may order the destruction of the recording at any time after ~~[that date.]~~ ***the date specified in subsection 1.***

3. If there is an appeal to the district court, the sound recording must be preserved until at least 30 days after final disposition of the case on appeal, but the justice of the peace may order the destruction of the recording at any time after that date.

Sec. 8. 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.

Amendment No. 577 to Assembly Bill No. 249 moves from Section 4 to Section 5 new language concerning the availability of a sound recording upon request of a transcript. It also clarifies that payment for a transcript must be paid to the reporter before the transcript is provided.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 290.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 601.

"SUMMARY—Revises provisions governing pupils enrolled in high school. (BDR 34-647)"

"AN ACT relating to education; authorizing the principal of a high school or the principal's designee to postpone the administration of the high school proficiency examination in the subject areas of mathematics and science for a pupil who is not academically ready in those subject areas; authorizing the board of trustees of a school district to administer the practice test of the high school proficiency examination to pupils enrolled in high school; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the high school proficiency examination is administered to pupils enrolled in high school in the subject areas of reading, mathematics, science and writing. (NRS 389.015, 389.550) Also under existing law, unless a pupil satisfies certain alternative criteria, passage of the high school proficiency examination in its entirety is required for receipt of a standard high school diploma. (NRS 389.805) Existing administrative regulations of the State Board of Education set forth the times for the administration of the high school proficiency examination beginning with grade 10. (NAC 389.051) **Section 4** of this bill authorizes the principal of a high school or the principal's designee to postpone the administration of the high school proficiency examination in the subject area of mathematics or science, or both, for a pupil enrolled in grade 10 for not more than 1 year if: (1) the principal or the principal's designee and the pupil's teacher who provides instruction in the applicable subject area determine **, based upon the criteria for grading established by the school district for the applicable subject area,** that the pupil is not academically ready to take the examination **;** ~~[~~, based upon a determination that the pupil is not achieving at least 79 percent competency in the applicable subject area;~~]~~ and (2) the parent or legal guardian of the pupil agrees in writing that the pupil is not academically ready for that subject area of the examination. If the administration of the examination is postponed, the pupil's academic plan for high school must be revised to ensure that: (1) the pupil is enrolled in or scheduled to enroll in the appropriate course work for his or her grade level

and receives the necessary preparation to enable the pupil to take the subject area of the high school proficiency examination which was postponed; and (2) the pupil participates in the statewide program to prepare pupils for the high school proficiency examination or enrolls in a course of study offered by the board of trustees of the school district designed to assist pupils with passing the high school proficiency examination.

Effective on July 1, 2011, existing law authorizes the board of trustees of each school district to require the administration of district-wide tests, examinations and assessments that are in addition to any other test, examination or assessment that is required by state or federal law. (NRS 389.006) **Section 4.5** of this bill authorizes the board of trustees of each school district to administer the practice test of the high school proficiency examination to pupils enrolled in high school.

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

Section 1. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. The policy must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) Work in consultation with a school counselor to develop an academic plan for the pupil;

(b) Sign the academic plan; and

(c) Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

3. If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

4. ***If the administration of the high school proficiency examination in the subject area of mathematics or science, or both, is postponed for a pupil pursuant to section 4 of this act, the pupil's academic plan must be revised in consultation with the pupil's teacher who provides instruction in the applicable subject area and the pupil's parent or legal guardian as set forth in section 4 of this act.***

5. An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and

receive a high school diploma if the pupil otherwise satisfies the requirements for a diploma.

Sec. 2. Chapter 389 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. (Deleted by amendment.)

Sec. 4. ***1. The principal of a high school, or the principal's designee, may postpone, for not more than 1 year, the administration of the high school proficiency examination in the subject area of mathematics or science, or both, for a pupil enrolled in grade 10 at the high school if:***

(a) The principal, or the principal's designee, and the pupil's teacher who provides instruction in the applicable subject area determine , based upon the criteria for grading established by the school district for the applicable subject area, that the pupil is not academically ready to take the high school proficiency examination in the subject area of mathematics or science . [, based upon a determination that the pupil is not achieving at least 79 percent competency in the applicable subject area.] If the high school in which the pupil is enrolled administers the practice test of the high school proficiency examination, the results of the pupil on that test may be included as one of the factors to determine the pupil's readiness.

(b) The parent or legal guardian of the pupil agrees in writing with the determination of the principal, or the principal's designee, and the teacher that the pupil is not academically ready to take the high school proficiency examination in the subject area of mathematics or science, or both.

2. If the administration of the mathematics or science subject area of the high school proficiency examination is postponed for a pupil pursuant to subsection 1, the principal of the school, or the principal's designee, shall provide the pupil and his or her parent or legal guardian a copy of the informational pamphlet concerning the high school proficiency examination developed by the Department pursuant to NRS 389.0173.

3. If the administration of the mathematics or science subject area of the high school proficiency examination is postponed for a pupil pursuant to subsection 1, the academic plan of the pupil developed pursuant to NRS 388.205 must be revised to:

(a) Ensure that the pupil is enrolled in or scheduled to enroll in the course work for his or her grade level and receives the necessary preparation to enable the pupil to take the subject area of the high school proficiency examination for which the examination is postponed; and

(b) Require the pupil to participate in the statewide program to prepare pupils for the high school proficiency examination established pursuant to NRS 389.0175 or enroll in the course of study designed to assist pupils with passing the high school proficiency examination prescribed by the State Board pursuant to NRS 389.045, or both.

4. On or before July 1 of each year, the board of trustees of each school district shall submit a report to the Department and the Legislative Committee on Education indicating:

(a) The number of pupils for whom the administration of the high school proficiency examination is postponed in the immediately preceding school year; and

(b) A notation indicating whether the administration was postponed for the subject area of mathematics or science, or both.

Sec. 4.5. NRS 389.006 is hereby amended to read as follows:

389.006 1. In addition to any other test, examination or assessment required by state or federal law, the board of trustees of each school district may require the administration of district-wide tests, examinations and assessments ***, including, without limitation, the practice test of the high school proficiency examination to pupils enrolled in high school,*** that the board of trustees determines are vital to measure the achievement and progress of pupils. In making this determination, the board of trustees shall consider any applicable findings and recommendations of the Legislative Committee on Education.

2. The tests, examinations and assessments required pursuant to subsection 1 must be limited to those which can be demonstrated to provide a direct benefit to pupils or which are used by teachers to improve instruction and the achievement of pupils.

3. The board of trustees of each school district and the State Board shall periodically review the tests, examinations and assessments administered to pupils to ensure that the time taken from instruction to conduct a test, examination or assessment is warranted because it is still accomplishing its original purpose.

Sec. 5. NRS 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

(a) Reading;

(b) Mathematics; and

(c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11 ~~[.]~~ ***, except for a pupil enrolled in grade 10 for whom the administration of the high school proficiency examination in the subject area of mathematics or science, or both, is postponed pursuant to section 4 of this act.***

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➥ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, the pupil may be promoted to the next higher grade, but the results of the pupil's examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, the pupil must not be graduated unless he or she:

(a) Is able, through remedial study, to pass the proficiency examination; or

(b) Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,

➥ but the pupil may be given a certificate of attendance, in place of a diploma, if the pupil has reached the age of 18 years.

6. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 5 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 6. 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. 601 revises the bill concerning the method of determining if a student may need a one-year delay for taking the mathematics or science portion of the State's high school proficiency exam. The amendment deletes the specific requirement for achieving 79 percent competency, and instead requires school districts to establish grading criteria for this purpose.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 306.

Bill read second time and ordered to third reading.

Assembly Bill No. 368.

Bill read second time and ordered to third reading.

Assembly Bill No. 451.

Bill read second time and ordered to third reading.

Assembly Bill No. 551.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 75.

Bill read third time.

Remarks by Senators Kihuen, Roberson, Brower, Schneider, Hardy and Kieckhefer.

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

SENATOR KIHUEN:

Senate Bill No. 75 requires the State Treasurer, at the direction of the Commission on Economic Development, to provide private equity funding to businesses that engage in certain industries. It allows the State Treasurer to invest an amount not to exceed $50 million of the State Permanent School Fund in businesses located or seeking to locate in Nevada.

SENATOR ROBERSON:

The State Treasurer's Office relies on a Declaratory Order signed by a district court judge to claim that this legislation in not unconstitutional.

This Declaratory Order is nothing more than a substitute for a legal opinion from the Attorney General's Office, which the Attorney General's Office has failed to provide.

The order was prepared by the Attorney General's Office. It was not contested and for that reason appears to have been signed by the court.

This does not make the legislation constitutional. The Nevada Supreme Court has not addressed this situation.

I will state again, the Attorney General's Office has failed to provide a legal opinion in favor of the constitutionality of this legislation. The Legislative Counsel Bureau (LCB) has also failed to provide such an opinion. I think there is good reason for their failure to offer such legal opinion.

Therefore, until the State Supreme Court decides that this legislation is constitutional, I believe that it is unconstitutional, as it is in violation of Section 9 of Article 8 of the Nevada State Constitution.

The 1989, 1991, 1993, 1995, 1997 and 1999 Legislatures all passed joint resolutions trying to get rid of Article 8, Section 9 of the *Nevada Constitution*. This resulted in votes of the people in 1992, 1996 and 2000. It was handily voted down in each of those elections.

I would ask my colleagues to support the Nevada State Constitution and the clear will of the people and reject this legislation.

SENATOR BROWER:

Thank you, Mr. President. My colleague from Clark County makes a compelling case. I sat on the committee that heard this bill and was impressed by some of the ideas brought forward that were behind this bill. I considered it with great interest in terms of it being an "outside the box" approach to this issue. As our colleague has indicated, we have not been able to get a clean bill of health on this bill in terms of its constitutionality. I expressed reservations in that regard in committee and since that time we have not seen an Attorney General Office opinion and we have not seen an LCB opinion. Most importantly, for our purposes here, we have not seen a Nevada Supreme Court opinion. They have not said, definitively, that this unique approach is, in fact, constitutional. Until we have that, we ought not as a Legislative Body go out on a limb and pass something that we are not certain is constitutional. For that reason I oppose this bill.

SENATOR SCHNEIDER:

I have heard here, today, that the LCB and the Attorney General's Office have not issued opinions. Has an opinion been requested? Did they refuse to give an opinion? We have 21 members in this Chamber and we all have different opinions. I can give you my opinion and tell you it is or is not constitutional, but my opinion does not count.

SENATOR KIHUEN:

The Attorney General's Office wrote the judicial confirmation, which they would not do if they did not think it was constitutional. LCB would not have drafted the bill if they did not think it was constitutional. It was suggested that the Supreme Court weigh in, but the Supreme Court cannot weigh in until an issue is "ripe," meaning until it is actually something possible, not theoretical.

SENATOR HARDY:

Thank you, Mr. President. I have not been privy to the conversations about the constitutionality of this bill. The amendment we addressed was prepared by LCB. We have a "he said, she said" issue going on at this time. I feel uncomfortable if we are processing something that has a constitutional question in it.

SENATOR ROBERSON:

Thank you, Mr. President. I have had a conversation with LCB. There was a reluctance from LCB to get involved in this now that the district court has signed the order requested by the State Treasurer's Office or by the Attorney General's Office. It is my sense that if the State Treasurer believed the Legislative Counsel Bureau would give that office a favorable opinion that one

would have been requested. I think it is telling that the LCB has not given an opinion, nor has the Attorney General's Office given a legal opinion. I do not think they are willing to stand by this. It is one thing to ask a judge to sign an order, it is another thing to have the Attorney General's Office say, "Yes, we believe as a matter of law, this is our opinion that it is constitutional." From my prospective, it says a lot that there is no legal opinion from either LCB or the Attorney General's Office.

SENATOR KIECKHEFER:

Thank you, Mr. President. I am not an attorney and I do not want to get into a legal debate with my colleagues who are. It is not the Attorney General's Office or LCB who determines what is the law of this land, it is the courts. They are a separate, but equal branch of government to ours. There is a duly elected district court judge who has issued an opinion that this is consistent with the Nevada State Constitution. If we waited for every bill we passed to be reviewed by the Supreme Court for its constitutionality, we would be held up significantly in our work. I will have to rely in the belief that the district court judge believes that it is constitutional and that he has the voice of authority on matters concerning what is and what is not constitutional. I will rely on his opinion.

Roll call on Senate Bill No. 75:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, McGinness, Rhoads, Roberson, Settelmeyer—8.

Senate Bill No. 75 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 12:55 p.m.

SENATE IN SESSION

At 12:57 p.m.

President Pro Tempore Schneider presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 470.

Bill read third time.

Roll call on Senate Bill No. 470:

YEAS—21.

NAYS—None.

Senate Bill No. 470 having received a constitutional majority, Mr. President Pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 474.

Bill read third time.

Roll call on Senate Bill No. 474:

YEAS—21.

NAYS—None.

Senate Bill No. 474 having received a constitutional majority, Mr. President Pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 478.

Bill read third time.

Roll call on Senate Bill No. 478:

YEAS—21.

NAYS—None.

Senate Bill No. 478 having received a constitutional majority, Mr. President Pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 479.

Bill read third time.

Roll call on Senate Bill No. 479:

YEAS—21.

NAYS—None.

Senate Bill No. 479 having received a constitutional majority, Mr. President Pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 482.

Bill read third time.

Roll call on Senate Bill No. 482:

YEAS—21.

NAYS—None.

Senate Bill No. 482 having received a constitutional majority, Mr. President Pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 23, 110 115, 130, 141, 145, 146, 182, 200, 237, 280, 395, 396, 420, 422, 454, 472, 480, 544; Assembly Joint Resolution No. 1, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 493, 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 Revenue.

STEVEN A. HORSFORD, *Chair*

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 1:02 p.m.

SENATE IN SESSION

At 1:19 p.m.

President Pro Tempore Schneider presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 493 be re-referred to the Committee on Revenue.

Motion carried.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 18, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 566.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 566.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved to reconsider the vote whereby Senate Bill No. 75 was this day passed.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 75.

Bill read third time.

Roll call on Senate Bill No. 75:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Lee, McGinness, Rhoads, Roberson, Settelmeyer—9.

Senate Bill No. 75 having received a constitutional majority, Mr. President Pro Tempore declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President Pro Tempore and Secretary signed Senate Bill No. 31; Assembly Bills Nos. 1, 30, 36, 37, 42, 45, 46, 50, 61, 62, 63, 68, 73, 203, 211, 214, 215.

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 the following students from the Nate Mack Elementary School: Bailey Burns, Sebastian Campbell, Rachel Carpenter, Sean Cooper, Sam Cox, Justin Dalton, Tuff Donovan, Jenna Ellis,

Cora Jenkins, Jessica Lindsay, John McCullough, Hayley McNally, Mason Mellor, Gerald Miller, Daniel Raspopovich, Meia Stuart, Griffin Szeman, Desirae Taylor, Eric Toca, Jazlyn Vidrios, Sophia Broussard, Jonathan Chavarria, Eric Cooper, Jasmin Finney, Julian Hulse, Kris Bernielle Icban, Kalvin Juarez, Ryan Luker, Diannni Mariano, Brenna Pease, Jazmine Perez, Jenna Rosario, David Scott, Roxanne Torres, Bailey Trotta, Gregor Anthony Laswell, Breanna Brown, Jake Crawford, Alondra Diaz Morones, Alexis Flynn, Ryedae Kemp, Gwyneth Miller, Nicholas Paradis, Morgan Seiler, Shelly Vazquez, Fatima Garcia, Theresa Hermanny, Jacqueline Carpenter, MaryAnne Cox, Kathia Dalton, John Donovan, Corrin Jenkins, Barbara Lindsay, Robin Mellor, Janette Rozgay Miller, John Raspopovich, Debra Stuart, End DePass, Jay Ramos, Angelique Agan, Marielsa Valle, Susan Pease, Robin Rosario, Nancy Heavey, Steven Crawford and Stacey Shaver.

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Major General (Retired) Ron Bath and Judge William A. Munnell.

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 Truckee Meadows Community College High School: Briel Anderson, Hunter Cavanagh, Lindsey Davis, Celina Gonzalez, Candace Goodman, Jessica Gutierrez, Amber Jones, Wanda LeGrange, Daniel Lewis, Courtney Linville, Olivia Myer, Margaret Perez, Michelle Rhodes, Jagpreet Singh, Carly Sitko, Steele Sasha, Jessica Stewart, Samuel Taber, Sara Aguirre, Alisha Bhatia, Kevin Carlson, Nicolle Derheim, Alivia Ely, Aizzabelle Garcia, Kimberly Godoy, Maria Gomez, Nicole Kenny, Amy Lawhon, Kori Lee, Elizabeth Loudon, Hope Loudon, Cassandra Mason, Megan Patten, Jennifer Pfennig, Hannah Tabbada and Shatton Zubieta.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Glen Carano, Lamise Carano, Pat Lundvahl, Perry Diloreto, Lieutenant Colonel Dan Waters, Ann Lee, Dawn Henderson, Bill Henderson, John Frankovich, Bob Lee, former Senator Terry Care, Mike Dayton, Paul C. Deyhle and Colonel Craig Wrobleski.

On request of Senator Leslie, the privilege of the Floor of the Senate Chamber for this day was extended to the following students, teachers and chaperones from the Bernice Mathews Elementary School: Daniel Aguilar, Cassandra Marquez Flores, Daniel Andrade, Jayden Milton, Linda Arreola Gonzalez, Edgar Mora, Vicente Ivan Chavez Cobian, Alejandra Mora-Hernandez, Maritza Cruz, Javier Moreno, Jessica Dominguez, Kolotita Palavu, Avril Frazier, Sahara Ramirez, Marco Garcia Murillo, Adanelly Ruelas, Alma Garibay, America Sarabia, Millicent Gonzalez Neri, Roderick Steiner, Pedro Gurrola, Cynthia Valdez, Odalis Gusman Marquez, Leonel Valdivia, Kevin Hong, Ramon Valencia-Soto, Lilia Juarez Lara, Destiny

Westley, Anthony King, Giselle Mandujano, Briana Anderson, Lynette Maldonado, Joan Atienza, Joseph Marshall, Jesse Bailey, Carlos Moran, Giovanni Baltazar, Drake Neumann, Cynthia Barela, Warren Petteway, Marcos Batres, Kaylie Pinto, Oma Cabrera, Samantha Reyna, Biance Ceja, Isac Rodriguez, Yocelyn Cervin, Nicholas Rosas, Jessica Delgado, Genaro Villarruel, Kristel Echavez, Mykiel Ellis, Nelly Estrada, Isaias German, Mario Gomez, Joseph Hanek, Nathan Hunter, Giovanny Jacobo, Marvetta Lewis, Jose Jesus Luna; teachers and chaperones Holly Vialpando, Ryan Rogers, Jenny Ricci, Amie Stickel and Gary Reyna.

Senator Horsford moved that the Senate adjourn until Thursday May 19, 2011, at 11:30 a.m.

Motion carried.

Senate adjourned at 1:24 p.m.

Approved: MICHAEL A. SCHNEIDER
President Pro Tempore of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND SECOND DAY

CARSON CITY (Thursday), May 19, 2011

Senate called to order at 11:52 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Christopher Amen.

Almighty God, You give us all that we need to support this body and life. Grant us faith to receive our challenges with boldness and confidence trusting not in ourselves but in Your mercy, through Jesus Christ, our Lord.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Halseth moved that Assembly Bill No. 282 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which were referred Assembly Bills Nos. 138, 227, 455, 456, 498, 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 were referred Assembly Bills Nos. 248, 481, 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 Natural Resources, to which was referred Assembly Bill No. 19, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Natural Resources, to which was referred Senate Concurrent Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

MARK A. MANENDO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 18, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 7, 27, 44, 74, 81, 114, 131, 232, 280, 302, 318, 393, 396.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 11.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 549 to Assembly Bill No. 201.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

SECOND READING AND AMENDMENT

Senate Bill No. 206.

Bill read second time and ordered to third reading.

Assembly Bill No. 13.

Bill read second time and ordered to third reading.

Assembly Bill No. 17.

Bill read second time.

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

Amendment No. 592.

"SUMMARY—Revises ~~[the applicability of the Nevada Administrative Procedure Act to]~~ **provisions concerning the judicial review of decisions of** the Public Utilities Commission of Nevada. (BDR 18-455)"

"AN ACT relating to administrative procedure; exempting the judicial review of decisions of the Public Utilities Commission of Nevada from the requirements of the Nevada Administrative Procedure Act; **revising provisions governing the procedure for the judicial review of decisions of the Commission;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the provisions of chapter 703 of NRS that relate to the judicial review of decisions of the Public Utilities Commission of Nevada prevail over the general provisions of the Nevada Administrative Procedure Act, which is contained in chapter 233B of NRS. (NRS 233B.039) ~~[This]~~ **Section 1 of this** bill removes that existing provision and instead provides that the provisions of the Nevada Administrative Procedure Act do not apply to the judicial review of decisions of the Commission.

Existing law also sets forth provisions relating to the procedure for the judicial review of decisions of the Commission. (NRS 703.373) Section 1.7 of this bill revises various provisions relating to that procedure and: (1) requires a party seeking judicial review to exhaust all administrative remedies before the party is entitled to seek judicial review of a final decision of the Commission; (2) specifies certain periods in which certain documents must be filed with the court and served upon the parties involved in the judicial review; and (3) provides that a final decision of the Commission is deemed reasonable and lawful until reversed or set aside in whole or in part by the court.

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

Section 1. NRS 233B.039 is hereby amended to read as follows:

233B.039 1. The following agencies are entirely exempted from the requirements of this chapter:

(a) The Governor.

(b) Except as otherwise provided in NRS 209.221, the Department of Corrections.

(c) The Nevada System of Higher Education.

(d) The Office of the Military.

(e) The State Gaming Control Board.

(f) Except as otherwise provided in NRS 368A.140, the Nevada Gaming Commission.

(g) The Division of Welfare and Supportive Services of the Department of Health and Human Services.

(h) Except as otherwise provided in NRS 422.390, the Division of Health Care Financing and Policy of the Department of Health and Human Services.

(i) The State Board of Examiners acting pursuant to chapter 217 of NRS.

(j) Except as otherwise provided in NRS 533.365, the Office of the State Engineer.

(k) The Division of Industrial Relations of the Department of Business and Industry acting to enforce the provisions of NRS 618.375.

(l) The Administrator of the Division of Industrial Relations of the Department of Business and Industry in establishing and adjusting the schedule of fees and charges for accident benefits pursuant to subsection 2 of NRS 616C.260.

(m) The Board to Review Claims in adopting resolutions to carry out its duties pursuant to NRS 590.830.

2. Except as otherwise provided in subsection 5 and NRS 391.323, the Department of Education, the Board of the Public Employees' Benefits Program and the Commission on Professional Standards in Education are subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

3. The special provisions of:

(a) Chapter 612 of NRS for the distribution of regulations by and the judicial review of decisions of the Employment Security Division of the Department of Employment, Training and Rehabilitation;

(b) Chapters 616A to 617, inclusive, of NRS for the determination of contested claims;

(c) ~~[Chapter 703 of NRS for the judicial review of decisions of the Public Utilities Commission of Nevada;~~

~~(d)]~~ Chapter 91 of NRS for the judicial review of decisions of the Administrator of the Securities Division of the Office of the Secretary of State; and

~~[(e)]~~ ***(d)*** NRS 90.800 for the use of summary orders in contested cases,

➥ prevail over the general provisions of this chapter.

4. The provisions of NRS 233B.122, 233B.124, 233B.125 and 233B.126 do not apply to the Department of Health and Human Services in the adjudication of contested cases involving the issuance of letters of approval for health facilities and agencies.

5. The provisions of this chapter do not apply to:

(a) Any order for immediate action, including, but not limited to, quarantine and the treatment or cleansing of infected or infested animals, objects or premises, made under the authority of the State Board of Agriculture, the State Board of Health, or any other agency of this State in the discharge of a responsibility for the preservation of human or animal health or for insect or pest control;

(b) An extraordinary regulation of the State Board of Pharmacy adopted pursuant to NRS 453.2184; ~~[or]~~

(c) A regulation adopted by the State Board of Education pursuant to NRS 392.644 or 394.1694 ~~[.]~~ ***; or***

(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 1.3. **NRS 703.330 is hereby amended to read as follows:**

703.330 1. A complete record must be kept of all hearings before the Commission. All testimony at such hearings must be taken down by the stenographer appointed by the Commission or, under the direction of any competent person appointed by the Commission, must be reported by sound recording equipment in the manner authorized for reporting testimony in district courts. The testimony reported by a stenographer must be transcribed, and the transcript filed with the record in the matter. The Commission may by regulation provide for the transcription or safekeeping of sound recordings. The costs of recording and transcribing testimony at any hearing, except those hearings ordered pursuant to NRS 703.310, must be paid by the applicant. If a complaint is made pursuant to NRS 703.310 by a customer or by a political subdivision of the State or municipal organization, the complainant is not liable for any costs. Otherwise, if there are several applicants or parties to any hearing, the Commission may apportion the costs among them in its discretion.

2. ~~[If a petition is served upon the Commission as provided in NRS 703.373 for the bringing of an action against the Commission, before the action is reached for trial, the Commission shall file a certified copy of all proceedings and testimony taken with the clerk of the court in which the action is pending.~~

~~3.]~~ A copy of the proceedings and testimony must be furnished to any party, on payment of a reasonable amount to be fixed by the Commission, and the amount must be the same for all parties.

~~[4.]~~ ***3.*** The provisions of this section do not prohibit the Commission from:

(a) Restricting access to the records and transcripts of a hearing pursuant to paragraph (a) of subsection 3 of NRS 703.196.

(b) Protecting the confidentiality of information pursuant to NRS 704B.310, 704B.320 or 704B.325.

Sec. 1.7. **NRS 703.373 is hereby amended to read as follows:**

703.373 1. Any party of record to a proceeding before the Commission is entitled to judicial review of the final decision ~~[.]~~ ***upon the exhaustion of all administrative remedies by the party of record seeking judicial review.***

2. Proceedings for review may be instituted by filing a petition ***for judicial review*** in the District Court in and for Carson City, in and for the county in which the party ***of record seeking judicial review*** resides, or in and for the county where the act on which the proceeding is based occurred.

3. A petition ***for judicial review*** must be filed within ~~[90]~~ ***30*** days after ~~[the service of the]~~ final ~~[decision of]~~ ***action by*** the Commission ***on reconsideration*** or ~~[, if a]~~ rehearing ~~[is held,]~~ ***, or if the Commission takes no action on reconsideration or rehearing,*** within 30 days after the ~~[decision thereon.]~~ ***date on which reconsideration or rehearing is deemed denied.*** Copies of the petition ***for judicial review*** must be served upon the Commission and all other parties of record.

~~[3.]~~ ***4. The Commission shall participate in the judicial review. Any party of record desiring to participate in the judicial review must file a statement of intent to participate in the petition for judicial review and serve the statement upon the Commission and every party within 15 days after service of the petition for judicial review.***

5. Within 30 days after the service of the petition for judicial review or such time as is allowed by the court, the Commission shall transmit to the reviewing court a certified copy of the entire record of the proceeding under review, including a transcript of the evidence resulting in the final decision of the Commission. The record may be shortened by stipulation of the parties to the proceedings.

6. A petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 30 days after the Commission gives written notice to the parties that the record of the proceeding under review has been filed with the court.

7. The Commission and ***any*** other ~~[defendants]~~ ***respondents*** shall ***serve and*** file ~~[their answers to the petition]~~ ***a reply memorandum of points and authorities*** within 30 days after ~~[the]~~ service ~~[thereof,]~~ ***of the memorandum of points and authorities,*** whereupon the action is at issue and ~~[they]~~ ***the parties*** must be ready for a hearing upon 20 days' notice ***.*** ~~[to either party.~~

~~4. The]~~

8. Judicial review ***of a final decision of the Commission*** must be ~~[conducted]~~ ***:***

(a) Conducted by the court without a jury ***;*** and ~~[be confined]~~

(b) Confined to the record.

➥ In cases ~~[of]~~ ***concerning*** alleged irregularities in procedure before the Commission ~~[,]~~ ***that are*** not shown in the record, ~~[proof thereon may be taken in]~~ the court ~~[. The court, upon request, shall hear oral argument and receive written briefs.~~

~~5.]~~ ***may receive evidence concerning the irregularities.***

9. The final decision of the Commission shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the petitioner to show that the final decision is invalid pursuant to subsection 11.

10. All actions brought under this section have precedence over any civil action of a different nature pending in the court.

~~[6.]~~ ***11.*** The court shall not substitute its judgment for that of the Commission as to the weight of the evidence on questions of fact. The court may affirm the decision of the Commission or set it aside in whole or in part if substantial rights of the ~~[appellant]~~ ***petitioner*** have been prejudiced because the ~~[administrative findings, inferences, conclusions or decisions are:]~~ ***final decision of the Commission is:***

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the Commission;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or

(f) Arbitrary or capricious or characterized by abuse of discretion.

Sec. 2. This act becomes effective upon passage and approval.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

Amendment No. 592 to Assembly Bill No. 17 clarifies judicial review procedures of decisions made by the Public Utilities Commission of Nevada. Specifically, the amendment requires a party seeking judicial review to exhaust all administrative remedies before the party is entitled to seek judicial review of a final decision of the Public Utilities Commission of Nevada. It specifies certain timeframes during which certain documents, such as a petition for judicial review and the memorandum of points and authorities, must be served and filed with the court; and it provides that a final decision of the Public Utilities Commission of Nevada is deemed reasonable and lawful until reversed or set aside by the court.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 29.

Bill read second time.

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

Amendment No. 586.

"SUMMARY—Revises provisions governing county hospitals and requires certain hospitals to report information concerning the transfers of

patients between hospitals to the Legislative Committee on Health Care. (BDR 40-343)"

"AN ACT relating to health care; increasing the compensation of members of hospital advisory boards; revising provisions governing the staff of physicians at public hospitals; requiring certain hospitals to report information concerning the transfers of patients between hospitals to the Legislative Committee on Health Care; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes certain boards of hospital trustees of public hospitals to appoint advisory boards and limits the compensation for the service of members of advisory boards to not more than $100 per month. (NRS 450.175) **Section 1** of this bill increases the limit on compensation to an amount not to exceed ~~[$1,000]~~ **$500** per month.

Existing law requires the board of hospital trustees of a public hospital to organize a staff of physicians composed of each regularly practicing physician, podiatric physician and dentist in the county who requests staff membership and prohibits the board from discriminating against a physician, podiatric physician or dentist. (NRS 450.440, 450.430) **Section 3** of this bill provides that the staff of physicians, podiatric physicians and dentists may be required to be affiliated with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine. **However, section 3 limits the number of physicians who may be required to be so affiliated to not more than 60 percent of the staff of physicians on or before January 1, 2013, and not more than 85 percent after that date but before January 1, 2018, and in such a percentage as the board of hospital trustees deems appropriate thereafter.** If so required, the physician, podiatric physician or dentist who requests staff membership must meet the standards in the regulations of the board of hospital trustees and hold and maintain a faculty or clinical appointment with one of the two Universities. An exception applies, however, if the board of hospital trustees enters into a contract with a physician or group of physicians to be the exclusive provider of certain services. **Section 2** of this bill further provides that if a physician loses privileges at a hospital because the physician no longer holds a faculty or clinical appointment with one of the Universities, that action shall not be deemed to be an adverse action against the physician.

Hospitals in this State are required to provide emergency services and care, and it is unlawful for a hospital or a physician working in a hospital emergency room to refuse to accept or treat a patient in need of emergency services and care. (NRS 439B.410) **Section 4** of this bill requires certain hospitals located in larger counties to provide a report of certain information to the Legislative Committee on Health Care concerning the transfer of patients from the hospital to another hospital and the availability of specialty medical services in the hospital. Such a report must be made quarterly

beginning on October 15, 2011, and cover the period from July 1, 2011, through September 30, 2012.

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

Section 1. NRS 450.175 is hereby amended to read as follows:

450.175 1. In counties where the board of county commissioners is the board of hospital trustees, the board of hospital trustees may appoint a hospital advisory board which shall exercise powers and duties delegated to the advisory board by the board of hospital trustees.

2. Members of a hospital advisory board must be appointed by a majority vote of the board of hospital trustees and shall serve at the pleasure of the board.

3. Members of the hospital advisory board may receive compensation for their services ~~[of no more than $100 per month.]~~ ***in an amount not to exceed*** ~~*[$1,000]*~~ ***$500 per month.***

Sec. 2. NRS 450.430 is hereby amended to read as follows:

450.430 1. ~~[In]~~ ***Except as otherwise provided in NRS 450.440, in*** the management of the public hospital, no discrimination may be made against physicians, podiatric physicians or dentists licensed under the laws of this state or licensed practitioners of the allied health professions, and all such physicians, dentists, podiatric physicians and practitioners have privileges in treating patients in the hospital in accordance with their training and ability, except that practitioners of the allied health professions may not be members of the staff of physicians described in NRS 450.440. Practitioners of the allied health professions are subject to the bylaws and regulations established by the board of hospital trustees.

2. The patient has the right to employ, at the patient's own expense, his or her own physician, if that physician is a member of the hospital staff, or the patient's own nurse, and when acting for any patient in the hospital, the physician employed by the patient has charge of the care and treatment of the patient, and the nurses in the hospital shall comply with the directions of the physician concerning that patient, subject to the regulations established by the board of hospital trustees.

3. If a physician loses privileges at a hospital because the physician no longer holds a faculty or clinical appointment with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine, as required pursuant to NRS 450.440, that action shall not be deemed to be an adverse action by the hospital against the physician.

Sec. 3. NRS 450.440 is hereby amended to read as follows:

450.440 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** board of hospital trustees shall organize a staff of physicians composed of each regular practicing physician, podiatric physician and dentist in the county in which the hospital is located who requests staff membership and meets the standards set forth in the regulations prescribed by the board of hospital trustees.

2. ***The board of hospital trustees may, after consulting with the chief of staff of the hospital and the deans of the University of Nevada School of Medicine and the University of Nevada, Las Vegas, School of Dental Medicine, organize a staff of physicians composed ~~[solely]~~ of physicians, podiatric physicians and dentists who are affiliated with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine who request staff membership and meet the requirements set forth in subsection 3. If the board of hospital trustees organizes a staff of physicians in accordance with this subsection, the board of hospital trustees may require:***

(a) Not more than 60 percent of the staff of physicians to be so affiliated before January 1, 2013.

(b) Not more than 85 percent of the staff of physicians to be so affiliated on or after January 1, 2013, and before January 1, 2018.

(c) The staff of physicians to have such an affiliation in such a percentage as the board of hospital trustees deems appropriate on or after January 1, 2018.

3. Except as otherwise provided in subsection 4, if the board of hospital trustees decides to organize the staff of physicians in accordance with subsection 2, a physician, podiatric physician or dentist who requests staff membership must:

(a) Meet the standards set forth in the regulations prescribed by the board of hospital trustees; and

(b) Hold a faculty or clinical appointment with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine and maintain that appointment while he or she is on the staff of physicians.

4. If the board of hospital trustees decides to organize the staff of physicians in accordance with subsection 2, the board of hospital trustees may enter into a contract with a physician or group of physicians who do not meet the requirements of subsection 3 if the physician or group of physicians will be the exclusive provider of certain services for the hospital. Such services may include, without limitation, radiology, pathology, emergency medicine and neonatology services.

5. The provisions of subsections 2 and 3 shall not be deemed to prohibit a physician, podiatric physician or dentist who is on the staff of physicians from being affiliated with another institution of higher education.

6. The staff shall organize in a manner prescribed by the board so that there is a rotation of service among the members of the staff to give proper medical and surgical attention and service to the indigent sick, injured or maimed who may be admitted to the hospital for treatment.

~~[3.]~~ ***7.*** The board of hospital trustees or the board of county commissioners may offer the following assistance to members of the staff to attract and retain them:

(a) Establishment of clinic or group practice;

(b) Malpractice insurance coverage under the hospital's policy of professional liability insurance;

(c) Professional fee billing; and

(d) The opportunity to rent office space in facilities owned or operated by the hospital, as the space is available, if this opportunity is offered to all members of the staff on the same terms and conditions.

Sec. 4. 1. Each hospital located in a county whose population is 700,000 or more which is licensed to have more than 70 beds shall provide to the Legislative Committee on Health Care a report concerning the transfer of patients from one hospital to another hospital. Such information must include:

(a) The number of patients who are transferred from the hospital to another hospital;

(b) The number of patients who were received by the hospital and who were transferred from another hospital;

(c) The reason for each transfer of a patient to another hospital;

(d) The availability of specialty services and care in the hospital; and

(e) Whether each patient who was transferred from the hospital had insurance or some other guaranteed form of payment for services.

2. Each hospital subject to the provisions of subsection 1 shall provide a report to the Legislative Committee on Health Care with the information required at least once every 3 months, and the reports must include information from July 1, 2011, through September 30, 2012. The first report must be made by October 15, 2011, and must include information from July 1, 2011, through September 30, 2011. Subsequent reports must include information for the period since the last report.

3. The information reported pursuant to this section must be made available to each person or entity that provides information pursuant to this section to the extent that it is not required by law to be kept confidential.

4. The information reported pursuant to this section must be maintained and reported in a manner consistent with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

5. As used in this section, "specialty services" includes, without limitation:

(a) Cardiology services;

(b) Gastroenterological services;

(c) General surgical services;

(d) Neurosurgical services;

(e) Ophthalmology services;

(f) Oral and maxillofacial surgical services;

(g) Orthopedic services;

(h) Otolaryngology services; and

(i) Urological services.

Sec. 5. This act becomes effective on July 1, 2011.

Senator Copening moved the adoption of the amendment.

Remarks by Senator Copening.

Amendment No. 586 revises Assembly Bill No. 29 by reducing the compensation for the service of members of advisory boards to an amount not to exceed $500 per month rather than $1,000; and by limiting the number of physicians who may be required to be so affiliated with the University of Nevada School of Medicine or the University of Nevada, Las Vegas, School of Dental Medicine to not more than 60 percent of the staff of physicians on or before January 1, 2013, and not more than 85 percent after that date but before January 1, 2018, and in such a percentage as the board of hospital trustees deems appropriate thereafter.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 56.

Bill read second time and ordered to third reading.

Assembly Bill No. 72.

Bill read second time and ordered to third reading.

Assembly Bill No. 76.

Bill read second time and ordered to third reading.

Assembly Bill No. 78.

Bill read second time and ordered to third reading.

Assembly Bill No. 117.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 117 be re-referred to the Committee on Finance.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 135.

Bill read second time and ordered to third reading.

Assembly Bill No. 143.

Bill read second time and ordered to third reading.

Assembly Bill No. 154.

Bill read second time.

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

Amendment No. 587.

"SUMMARY—Enacts provisions which guarantee certain rights to children placed in foster homes in this State. (BDR 38-802)"

"AN ACT relating to the protection of children; establishing provisions which set forth certain rights of children who are placed in foster homes; requiring notice of those rights to children placed in foster homes; establishing a procedure for children who are placed in foster homes to report

alleged violations of those rights; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 3-5 of this bill establish certain rights of children who are placed in foster homes. **Section 6** of this bill requires a provider of family foster care which places a child in a foster home to inform the child of his or her rights and provide the child with a written copy of those rights. **Section 6** also requires each group foster home which provides care to more than six children to post a written copy of those rights in the group foster home. **Section 7** of this bill authorizes a provider of family foster care to place reasonable restrictions on the rights of a child based upon the time, place and manner of a child's exercise of those rights if such restrictions are necessary to preserve the order or safety of the foster home. **Section 8** of this bill authorizes a child placed in foster care who believes that his or her rights as set forth in this bill have been violated to raise and redress a grievance with any of a number of persons or institutions responsible for the child.

Section 9 of this bill prohibits an employee of a school district from disclosing to any person who is not employed by the school district any information relating to a pupil who is placed in foster care.

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

Section 1. Chapter 432 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 to 8, inclusive, of this act.

Sec. 1.3. ***As used in sections 1.3 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.5, 1.7 and 1.9 of this act have the meanings ascribed to them in those sections.***

Sec. 1.5. ***"Foster home" has the meaning ascribed to it in NRS 424.014.***

Sec. 1.7. ***"Group foster home" has the meaning ascribed to it in NRS 424.015.***

Sec. 1.9. ***"Provider of family foster care" has the meaning ascribed to it in NRS 424.017.***

Sec. 2. ***It is the policy of this State that every child placed in a foster home by an agency which provides child welfare services have the rights set forth in sections 3, 4 and 5 of this act.***

Sec. 3. ***A child placed in a foster home by an agency which provides child welfare services has the right:***

1. To receive information concerning his or her rights set forth in this section and sections 4 and 5 of this act.

2. To be treated with dignity and respect.

3. To fair and equal access to services, placement, care, treatment and benefits.

4. To receive adequate, healthy, appropriate and accessible food.

5. To receive adequate, appropriate and accessible clothing and shelter.

6. To receive appropriate medical care, including, without limitation:

(a) Dental, vision and mental health services;

(b) Medical and psychological screening, assessment and testing; and

(c) Referral to and receipt of medical, emotional, psychological or psychiatric evaluation and treatment as soon as practicable after the need for such services has been identified.

7. To be free from:

(a) Abuse or neglect, as defined in NRS 432B.020;

(b) Corporal punishment, as defined in NRS 388.5225;

(c) Unreasonable searches of his or her personal belongings or other unreasonable invasions of privacy;

(d) The administration of psychotropic medication unless the administration is consistent with NRS 432B.197 and the policies established pursuant thereto; and

(e) Discrimination or harassment on the basis of his or her actual or perceived race, ethnicity, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability or exposure to the human immunodeficiency virus.

8. To attend religious services of his or her choice or to refuse to attend religious services.

9. Except for placement in a facility, as defined in NRS 432B.6072, not to be locked in any room, building or premise or to be subject to other physical restraint or isolation.

10. Except as otherwise prohibited by the agency which provides child welfare services:

(a) To send and receive unopened mail; and

(b) To maintain a bank account and manage personal income, consistent with the age and developmental level of the child.

11. To complete an identification kit, including, without limitation, photographing, and include the identification kit and his or her photograph in a file maintained by ~~*[the licensee of the foster home and]*~~ ***the agency which provides child welfare services and any employee thereof who provides child welfare services to the child.***

12. To communicate with other persons, including, without limitation, the right:

(a) To communicate regularly, but not less often than once each month, with an employee of the agency which provides child welfare services who provides child welfare services to the child;

(b) To communicate confidentially with the agency which provides child welfare services to the child concerning his or her care;

(c) To report any alleged violation of his or her rights pursuant to section 8 of this act without being threatened or punished;

(d) Except as otherwise prohibited by a court order, to contact a family member, social worker, attorney, advocate for children receiving foster care services or guardian ad litem appointed by a court or probation officer; and

(e) Except as otherwise prohibited by a court order, to contact and visit his or her siblings.

Sec. 4. *With respect to the placement of a child in a foster home by an agency which provides child welfare services, the child has the right:*

1. To live in a safe, healthy, stable and comfortable environment, including, without limitation, the right:

(a) If safe and appropriate, to remain in his or her home, be placed in the home of a relative or be placed in a home within his or her community;

(b) To be placed in an appropriate foster home best suited to meet the unique needs of the child, including, without limitation, any disability of the child;

(c) To be placed in a foster home where the licensee, employees and residents of the foster home who are 18 years of age or older have submitted to an investigation of their background and personal history in compliance with NRS 424.031; and

(d) To be placed with his or her siblings, whenever possible, and as required by law, if his or her siblings are also placed outside the home.

2. To receive and review information concerning his or her placement, including, without limitation, the right:

(a) To receive information concerning any plan for his or her permanent placement adopted pursuant to NRS 432B.553;

(b) To receive information concerning any changes made to his or her plan for permanent placement; and

(c) If the child is 12 years of age or older, to review the plan for his or her permanent placement.

3. To attend and participate in a court hearing which affects the child, to the extent authorized by law and appropriate given the age and experience of the child.

Sec. 5. *With respect to the education and vocational training of a child placed in a foster home by an agency which provides child welfare services, the child has the right:*

1. To receive fair and equal access to an education, including, without limitation, the right:

(a) To receive an education as required by law;

(b) To have stability in and minimal disruption to his or her education when the child is placed in a foster home;

(c) To attend the school and remain in the scholastic activities that he or she was enrolled in before placement in a foster home, to the extent practicable and if in the best interests of the child;

(d) To have educational records transferred in a timely manner from the school that he or she was enrolled in before placement in a foster home to a new school, if any;

(e) Not to be identified as a foster child to other students at his or her school by an employee of a school district, including, without limitation, a school administrator, teacher or instructional aide;

(f) To receive any educational screening, assessment or testing required by law;

(g) To be referred to and receive educational evaluation and services as soon as practicable after the need for such services has been identified, including, without limitation, access to special education and special services to meet the unique needs of a child with educational or behavioral disabilities or impairments that adversely affect the child's educational performance;

(h) To have access to information regarding relevant educational opportunities, including, without limitation, course work for vocational and postsecondary educational programs and financial aid for postsecondary education, once the child is 16 years of age or older; and

(i) To attend a class or program concerning independent living for which he or she is qualified that is offered by the agency which provides child welfare services or another agency or contractor of the State.

2. To participate in extracurricular, cultural and personal enrichment activities which are consistent with the age and developmental level of the child.

3. To work and to receive vocational training, to the extent permitted by statute and consistent with the age and developmental level of the child.

4. To have access to transportation, if practicable, to allow the child to participate in extracurricular, cultural, personal and work activities.

Sec. 6. *1. A provider of family foster care that places a child in a foster home shall:*

(a) Inform the child of his or her rights set forth in sections 3, 4 and 5 of this act;

(b) Provide the child with a written copy of those rights; and

(c) Provide an additional written copy of those rights to the child upon request.

2. A group foster home shall post a written copy of the rights set forth in sections 3, 4 and 5 of this act in a conspicuous place inside the group foster home.

Sec. 7. *A provider of family foster care may impose reasonable restrictions on the time, place and manner in which a child may exercise his or her rights set forth in sections 3, 4 and 5 of this act if the provider of family foster care determines that such restrictions are necessary to preserve the order, discipline or safety of the foster home.*

Sec. 8. *If a child believes that his or her rights set forth in sections 3, 4 and 5 of this act have been violated, the child may raise and redress a grievance with, without limitation:*

1. A provider of foster care;

2. An employee of a family foster home, as defined in NRS 424.013, group foster home or specialized foster home;

3. An agency which provides child welfare services to the child, and any employee thereof;

4. A juvenile court with jurisdiction over the child;

5. A guardian ad litem for the child; or

6. An attorney for the child.

Sec. 9. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

An employee of a school district, including, without limitation, a teacher, an administrator or an instructional aide, shall not disclose to any person who is not employed by the school district the fact that a pupil is a child who has been placed in a foster home or any related information.

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. 587 revises Assembly Bill No. 154 by clarifying that only the agency which provides child welfare services and any employee thereof who provides child welfare services to the child will maintain the identification kit in their file.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 170.

Bill read second time.

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

Amendment No. 584.

"SUMMARY—Establishes provisions relating to warnings about the health hazards of smoking during pregnancy. (BDR 40-884)"

"AN ACT relating to public health; requiring each retail establishment in which cigarettes are sold or offered for sale to post a sign regarding the dangers of smoking tobacco during pregnancy; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires food establishments in which alcoholic beverages are sold for consumption on the premises to post at least one sign in a location conspicuous to the patrons of the establishment regarding the dangers of drinking alcoholic beverages during pregnancy. (NRS 446.842) Existing law also requires the owner of a retail establishment in which cigarettes or smokeless tobacco products are sold or offered for sale to display prominently at the point of sale a notice indicating that the sale of cigarettes and other tobacco products to minors is prohibited by law and that the retailer may ask for proof of age to comply with the prohibition. (NRS 202.2493)

This bill requires each retail establishment in which cigarettes are sold or offered for sale to post at least one sign regarding the dangers of smoking tobacco during pregnancy in a location conspicuous to the patrons of the establishment. A person who fails to post the sign is subject to a civil fine of not more than $100.

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

Section 1. Chapter 442 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each retail establishment in which cigarettes are sold or offered for sale shall post at least one sign that meets the requirements of this section in a location conspicuous to the patrons of the establishment. The contents of the warning may be included on any other sign which the retail establishment is required to post in a location conspicuous to the patrons of the establishment.

2. Each sign required by subsection 1 must be not less than ~~[8 1/2 by 11]~~ 8 by 5 1/2 inches in size and must contain a notice in boldface type that is clearly legible and, except as otherwise provided in ~~[paragraph (a) of]~~ subsection 4, is in substantially the following form:

HEALTH WARNING

Smoking tobacco during pregnancy can cause birth defects, premature birth and low birth weight.

¡ADVERTENCIA!

Fumar tabaco durante el embarazo puede causar daño a su bebé al nacer, que nazca prematuro y que nazca bajo de peso.

3. The letters in the words "HEALTH WARNING" and "¡ADVERTENCIA!" in the sign must be written in not less than 28-point type, and the letters in all other words in the sign must be written in not less than 24-point type.

4. The Health Division may ~~[:~~

~~(a) Provide]~~ provide by regulation for one or more alternative forms for the language of the warning to be included on the signs required by subsection 1 to increase the effectiveness of the signs. Each alternative form must contain substantially the same message as is stated in subsection 2.

~~[(b) Solicit]~~ The Health Division and the local boards of health may solicit and accept donations of signs that satisfy the requirements of this section from a nonprofit organization or any other source. To the extent that such signs are donated, the Health Division or the local boards of health, as applicable, shall distribute the signs upon request to retail establishments that are required to post such signs.

Sec. 2. NRS 202.2493 is hereby amended to read as follows:

202.2493 1. A person shall not sell, distribute or offer to sell cigarettes or smokeless products made from tobacco in any form other than in an unopened package which originated with the manufacturer and bears any health warning required by federal law. A person who violates this subsection shall be punished by a fine of $100 and a civil penalty of $100.

2. Except as otherwise provided in subsections 3, 4 and 5, it is unlawful for any person to sell, distribute or offer to sell cigarettes, cigarette paper, tobacco of any description or products made from tobacco to any child under

the age of 18 years. A person who violates this subsection shall be punished by a fine of not more than $500 and a civil penalty of not more than $500.

3. A person shall be deemed to be in compliance with the provisions of subsection 2 if, before the person sells, distributes or offers to sell to another, cigarettes, cigarette paper, tobacco of any description or products made from tobacco, the person:

(a) Demands that the other person present a valid driver's license or other written or documentary evidence which shows that the other person is 18 years of age or older;

(b) Is presented a valid driver's license or other written or documentary evidence which shows that the other person is 18 years of age or older; and

(c) Reasonably relies upon the driver's license or written or documentary evidence presented by the other person.

4. The employer of a child who is under 18 years of age may, for the purpose of allowing the child to handle or transport tobacco or products made from tobacco in the course of the child's lawful employment, provide tobacco or products made from tobacco to the child.

5. With respect to any sale made by an employee of a retail establishment, the owner of the retail establishment shall be deemed to be in compliance with the provisions of subsection 2 if the owner:

(a) Had no actual knowledge of the sale; and

(b) Establishes and carries out a continuing program of training for employees which is reasonably designed to prevent violations of subsection 2.

6. The owner of a retail establishment shall, whenever any product made from tobacco is being sold or offered for sale at the establishment, display prominently at the point of sale ~~[~~a~~]~~ ***:***

(a) A notice indicating that:

~~[~~(a)~~]~~ ***(1)*** The sale of cigarettes and other tobacco products to minors is prohibited by law; and

~~[~~(b)~~]~~ ***(2)*** The retailer may ask for proof of age to comply with this prohibition ~~[~~.~~]~~ ***; and***

(b) At least one sign that complies with the requirements of section 1 of this act.

➥ A person who violates this subsection shall be punished by a fine of not more than $100.

7. It is unlawful for any retailer to sell cigarettes through the use of any type of display:

(a) Which contains cigarettes and is located in any area to which customers are allowed access; and

(b) From which cigarettes are readily accessible to a customer without the assistance of the retailer,

➥ except a vending machine used in compliance with NRS 202.2494. A person who violates this subsection shall be punished by a fine of not more than $500.

8. Any money recovered pursuant to this section as a civil penalty must be deposited in a separate account in the State General Fund to be used for the enforcement of this section and NRS 202.2494.

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. 584 revises Assembly Bill 170 by reducing the size of the required sign to 8 inches by 5-1/2 inches; and by authorizing the local board of health, in addition to the Health Division, to solicit and accept donations for signs and to distribute those signs to certain retail establishments.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 192.

Bill read second time and ordered to third reading.

Assembly Bill No. 213.

Bill read second time and ordered to third reading.

Assembly Bill No. 246.

Bill read second time and ordered to third reading.

Assembly Bill No. 253.

Bill read second time.

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

Amendment No. 596.

"SUMMARY—Makes various changes concerning fines and settlement agreements relating to occupational safety and health. (BDR 53-100)"

"AN ACT relating to occupational safety; revising certain fines for willful violations of the Nevada Occupational Safety and Health Act; authorizing citations and fines for violation of a settlement agreement; providing for a survey of salaries of safety and mechanical inspectors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the assessment of certain fines and punishments for violations of the Nevada Occupational Safety and Health Act. (NRS 618.625-618.715)

Sections 1-4 of this bill include within the scope of behavior that may trigger certain fines or punishments the violation of any provision of a settlement agreement entered into that relates to the Nevada Occupational Safety and Health Act **and which requires an employer to correct or modify a condition or practice in or relating to a place of employment,** and authorize the Division of Industrial Relations of the Department of Business and Industry to take certain actions to enforce such a settlement agreement.

Section 2 of this bill increases the maximum and minimum fines for willfully violating any requirement of the Nevada Occupational Safety and Health Act. **Section 4** of this bill revises the punishment for a willful violation of the Nevada Occupational Safety and Health Act that results in the death of an employee by revising the fine that may be assessed for each such violation.

Section 5 of this bill requires the Department of Personnel to complete a survey of the salaries of safety and mechanical inspectors and report its findings to the Director of the Legislative Counsel Bureau by July 1, 2012.

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

Section 1. NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the Administrator or the Administrator's authorized representative believes that an employer has violated ~~[a]~~ ***:***

(a) A requirement of this chapter, or any standard, rule or order adopted or issued pursuant to this chapter, ~~*[or any provision of a settlement agreement entered into relating to this chapter,]*~~ the Division shall with reasonable promptness issue a citation to the employer ~~[.]~~ ***; or***

(b) Any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, the Division may issue a citation to the employer.

2. Each citation ***issued under this section*** must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter ***,*** ~~[or]~~ the provision of the standard, rule, regulation or order ***, or the provision of the settlement agreement*** alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The Administrator may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

~~[2.]~~ ***3.*** Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the Administrator at or near each place a violation referred to in the citation occurred.

~~[3.]~~ ***4.*** No citation may be issued under this section after 6 months following the occurrence of any violation.

Sec. 1.3. NRS 618.515 is hereby amended to read as follows:

618.515 If any person disobeys an order of the Division, ***any provision of a settlement agreement entered into relating to this chapter*** ~~*[,]*~~ ***which requires the employer to correct or modify a condition or practice in or relating to a place of employment, or*** a subpoena issued by ~~[it]~~ ***the Division***

or one of its representatives, refuses to permit an inspection or refuses to testify as a witness to any matter regarding which the person may be lawfully interrogated, ~~[then]~~ the district judge of the county in which the person resides, on application of the Administrator or the Administrator's representative, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.

Sec. 1.7. NRS 618.525 is hereby amended to read as follows:

618.525 1. The Division may prosecute, defend and maintain actions in the name of the Division for the enforcement of the provisions of this chapter ***or any settlement agreement entered into relating to this chapter*** ~~[,]~~ ***which requires the employer to correct or modify a condition or practice in or relating to a place of employment,*** and is entitled to all extraordinary writs ***or other relief*** provided by the Constitution of the State of Nevada, the statutes of this State and the Nevada Rules of Civil Procedure in connection therewith for the enforcement thereof.

2. Verification of any pleading, affidavit or other paper required may be made by the Division.

3. In any action or proceeding or in the prosecution of any appeal by the Division, no bond or undertaking may be required to be furnished by the Division.

Sec. 2. NRS 618.635 is hereby amended to read as follows:

618.635 Any employer who ~~[willfully]~~ ~~[or repeatedly]~~ ***:***

1. Willfully violates any requirements of this chapter, any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, ***or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment,*** may be assessed an administrative fine of not more than ~~[$70,000 for each violation, but]~~ ***$100,000 and*** not less than ~~[$5,000]~~ ***$8,000*** for each willful violation.

2. Repeatedly violates any requirements of this chapter, any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, may be assessed an administrative fine of not more than $70,000 and not less than $5,000 for each repeated violation.

Sec. 3. NRS 618.645 is hereby amended to read as follows:

618.645 Any employer who has received a citation for a serious violation of any requirement of this chapter, ~~[or]~~ any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, ***or any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment,*** must be assessed an administrative fine of not more than $7,000 for each such violation. If a violation is specifically determined

to be of a nonserious nature an administrative fine of not more than $7,000 may be assessed.

Sec. 4. NRS 618.685 is hereby amended to read as follows:

618.685 Any employer who willfully violates any requirement of this chapter, ~~[or]~~ any standard, rule, regulation or order promulgated or prescribed pursuant to this chapter, ***or any provision of a settlement agreement entered into relating to this chapter*** ~~[,]~~ ***which requires the employer to correct or modify a condition or practice in or relating to a place of employment*** where the violation causes the death of any employee, shall be punished:

1. For a first offense, by a fine of not more than ~~[$50,000]~~ ***$100,000 and not less than $50,000,*** or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. For a second or subsequent offense, by a fine of not more than ~~[$100,000]~~ ***$250,000 and not less than $50,000,*** or by imprisonment in the county jail for not more than 1 year, or by both fine and imprisonment.

Sec. 5. 1. The Department of Personnel shall conduct a survey of the salaries of safety and mechanical inspectors employed by the Division of Industrial Relations of the Department of Business and Industry, including, without limitation, salaries for similar positions within the private sector.

2. The Department of Personnel shall seek to obtain relevant information from public and private employers as part of the survey. Any such information obtained by the Department may be used only for the purpose of conducting the survey.

3. The Department of Personnel shall complete the survey and submit a copy of its findings and recommendations on or before July 1, 2012, to the Director of the Legislative Counsel Bureau for distribution to the Interim Finance Committee.

Sec. 6. This act becomes 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. 596 to Assembly Bill No. 253 authorizes the Administrator of the Division of Industrial Relations (the Division) to issue a citation to an employer who has entered into a settlement agreement with the Division requiring the employer to correct or modify a condition or practice, and who then violates any provision of the agreement.

The amendment also authorizes the Administrator to impose certain administrative fines for repeated violations of the applicable statutes, regulations, administrative orders or settlement agreements.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 254.

Bill read second time.

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

Amendment No. 595.

"SUMMARY—Revises provisions relating to the issuance of a citation for certain occupational safety and health violations. (BDR 53-101)"

"AN ACT relating to occupational safety; revising provisions governing the grounds for the issuance of a citation for certain occupational safety and health violations; providing for the issuance of a citation for certain occupational safety and health violations upon a determination by the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative that any employee has access to a hazard; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that if, upon inspection or investigation, the Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's authorized representative believes an employer is in violation of the Nevada Occupational Safety and Health Act, the Division shall issue a citation to the employer for the violation. (NRS 618.465)

~~[This]~~ **Section 1 of this** bill provides that the Administrator or the authorized representative may find a violation to have occurred based upon a determination of the Administrator or authorized representative that any employee has access to a hazard. ~~[This]~~ **Sections 1, 1.3 and 1.7 of this** bill also ~~[includes]~~ **include** within the scope of behavior for which a citation may be issued the violation of any provision of a settlement agreement entered into that relates to the Nevada Occupational Safety and Health Act ~~[.]~~ **and that requires an employer to correct or modify a condition or practice in or relating to a place of employment and authorize the Division to take certain actions to enforce such a settlement agreement.**

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

Section 1. NRS 618.465 is hereby amended to read as follows:

618.465 1. If, upon inspection or investigation, the Administrator or the Administrator's authorized representative believes that an employer has violated ~~[a]~~ **:**

(a) A requirement of this chapter, or any standard, rule or order adopted or issued pursuant to this chapter, ~~*[or any provision of a settlement agreement entered into relating to this chapter,]*~~ the Division shall with reasonable promptness issue a citation to the employer ~~[.]~~ ***; or***

(b) Any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, the Division may issue a citation to the employer.

2. Each citation ***issued under this section*** must be in writing and describe with particularity the nature of the violation, including a reference to the section of this chapter ***,*** ~~[or]~~ the provision of the standard, rule, regulation or order ***, or the provision of the settlement agreement*** alleged to have been violated. In addition the citation must fix a reasonable time for the abatement of the violation. The Administrator may prescribe procedures for the issuance of a notice in lieu of a citation with respect to:

(a) Minor violations which have no direct or immediate relationship to safety or health; and

(b) Violations which are not serious and which the employer agrees to correct within a reasonable time.

~~[2.]~~ ***3. A citation issued under this section may be based upon a determination of the Administrator or the Administrator's authorized representative that any employee has access to a hazard.***

~~*[3.]*~~ ***4.*** Each citation issued under this section, or a copy or copies thereof, must be prominently posted as prescribed in regulations adopted by the Administrator at or near each place a violation referred to in the citation occurred.

~~[3.]~~ ~~*[4.]*~~ ***5.*** No citation may be issued under this section after 6 months following the occurrence of any violation.

~~*[5.]*~~ ***6. The Administrator may adopt regulations to carry out the provisions of this section.***

Sec. 1.3. **NRS 618.515 is hereby amended to read as follows:**

618.515 If any person disobeys an order of the Division, ***any provision of a settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment, or*** a subpoena issued by ~~[it]~~ ***the Division*** or one of its representatives, refuses to permit an inspection or refuses to testify as a witness to any matter regarding which the person may be lawfully interrogated, ~~[then]~~ the district judge of the county in which the person resides, on application of the Administrator or the Administrator's representative, shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoenas issued from the court on a refusal to testify therein.

Sec. 1.7. **NRS 618.525 is hereby amended to read as follows:**

618.525 1. The Division may prosecute, defend and maintain actions in the name of the Division for the enforcement of the provisions of this chapter ***or any settlement agreement entered into relating to this chapter which requires the employer to correct or modify a condition or practice in or relating to a place of employment,*** and is entitled to all extraordinary writs ***or other relief*** provided by the Constitution of the State of Nevada, the statutes of this State and the Nevada Rules of Civil Procedure in connection therewith for the enforcement thereof.

2. Verification of any pleading, affidavit or other paper required may be made by the Division.

3. In any action or proceeding or in the prosecution of any appeal by the Division, no bond or undertaking may be required to be furnished by the Division.

Sec. 2. This act becomes 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. 595 to Assembly Bill No. 254 authorizes the Administrator of the Division of Industrial Relations (the Division) to issue a citation to an employer who has entered into a settlement agreement with the Division of Industrial Relations requiring the employer to correct or modify a condition or practice, and who then violates any provision of the agreement.

The Administrator may seek contempt proceedings in district court if any person disobeys an order of the Division or a settlement agreement, or refuses to permit an inspection or to testify as a witness.

The amendment also authorizes the Division to prosecute, defend, and maintain actions in the name of the Division to enforce applicable laws or settlement agreements.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 276.

Bill read second time and ordered to third reading.

Assembly Bill No. 292.

Bill read second time and ordered to third reading.

Assembly Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 572.

"SUMMARY—Revises provisions governing the custody and visitation of children for persons who are members of the military. (BDR 11-627)"

"AN ACT relating to child custody; providing for the expiration by operation of law of certain orders modifying custody and visitation of children for persons who are members of the military; authorizing a court to delegate the visitation rights of a member of the military to a family member of the member of the military under certain circumstances; requiring a court, under certain circumstances, to provide an expedited hearing concerning custody or visitation matters to allow participation in such a hearing by affidavit or electronic means, or to both hold an expedited hearing and allow such participation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that an award of child custody or visitation may only be made by considering the best interest of the child. (NRS 125.480, 125C.010) Existing law further provides that the court is authorized, with certain exceptions, to modify its order at any time. (NRS 125.510) **Section 10** of this bill prohibits a court from entering a final order modifying the terms of an existing custody or visitation order of a parent or legal

guardian who is a member of the military and who has received mandatory written orders for deployment until 90 days after the deployment ends. **Section 11** of this bill provides that deployment or the potential for future deployment of a parent or legal guardian must not, by itself, constitute a substantial change sufficient to justify a permanent modification of a custody or visitation order.

Section 12 of this bill authorizes a court to modify a custody or visitation order to reasonably accommodate the deployment of a parent or legal guardian and deems any such modification to be a temporary order. **Section 13** of this bill provides, with certain exceptions, that such a temporary order expires automatically upon the completion of the deployment and the custody or visitation order that was in place before the order was modified by the temporary order is automatically reinstated.

Section 15 of this bill authorizes a court to delegate the visitation rights of the parent or legal guardian who is deployed to a family member of the parent or legal guardian under certain circumstances.

Section 14 of this bill requires a court, upon a motion of a parent or legal guardian who is deployed or has received mandatory written orders for deployment and ~~[who is prevented by military duties from appearing]~~ **whose ability, or anticipated ability, to appear** in person at a regularly scheduled hearing concerning custody or visitation matters ~~[,]~~ **is materially affected by his or her military duties,** to: (1) hold an expedited hearing; (2) allow the parent or legal guardian to present testimony and evidence by affidavit or electronic means; or (3) both hold an expedited hearing and allow testimony and evidence to be presented by affidavit or electronic means.

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

Section 1. NRS 125.510 is hereby amended to read as follows:

125.510 1. In determining the custody of a minor child in an action brought pursuant to this chapter, the court may, except as otherwise provided in this section and chapter 130 of NRS ~~[:]~~ ***and sections 3 to 20, inclusive, of this act:***

(a) During the pendency of the action, at the final hearing or at any time thereafter during the minority of any of the children of the marriage, make such an order for the custody, care, education, maintenance and support of the minor children as appears in their best interest; and

(b) At any time modify or vacate its order, even if the divorce was obtained by default without an appearance in the action by one of the parties.

➥ The party seeking such an order shall submit to the jurisdiction of the court for the purposes of this subsection. The court may make such an order upon the application of one of the parties or the legal guardian of the minor.

2. Any order for joint custody may be modified or terminated by the court upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires the modification or

termination. The court shall state in its decision the reasons for the order of modification or termination if either parent opposes it.

3. Any order for custody of a minor child or children of a marriage entered by a court of another state may, subject to ***the provisions of sections 3 to 20, inclusive, of this act and to*** the jurisdictional requirements in chapter 125A of NRS, be modified at any time to an order of joint custody.

4. A party may proceed pursuant to this section without counsel.

5. Any order awarding a party a limited right of custody to a child must define that right with sufficient particularity to ensure that the rights of the parties can be properly enforced and that the best interest of the child is achieved. The order must include all specific times and other terms of the limited right of custody. As used in this subsection, "sufficient particularity" means a statement of the rights in absolute terms and not by the use of the term "reasonable" or other similar term which is susceptible to different interpretations by the parties.

6. All orders authorized by this section must be made in accordance with the provisions of chapter 125A of NRS ***and sections 3 to 20, inclusive, of this act*** and must contain the following language:

PENALTY FOR VIOLATION OF ORDER: THE ABDUCTION, CONCEALMENT OR DETENTION OF A CHILD IN VIOLATION OF THIS ORDER IS PUNISHABLE AS A CATEGORY D FELONY AS PROVIDED IN NRS 193.130. NRS 200.359 provides that every person having a limited right of custody to a child or any parent having no right of custody to the child who willfully detains, conceals or removes the child from a parent, guardian or other person having lawful custody or a right of visitation of the child in violation of an order of this court, or removes the child from the jurisdiction of the court without the consent of either the court or all persons who have the right to custody or visitation is subject to being punished for a category D felony as provided in NRS 193.130.

7. In addition to the language required pursuant to subsection 6, all orders authorized by this section must specify that the terms of the Hague Convention of October 25, 1980, adopted by the 14th Session of the Hague Conference on Private International Law, apply if a parent abducts or wrongfully retains a child in a foreign country.

8. If a parent of the child lives in a foreign country or has significant commitments in a foreign country:

(a) The parties may agree, and the court shall include in the order for custody of the child, that the United States is the country of habitual residence of the child for the purposes of applying the terms of the Hague Convention as set forth in subsection 7.

(b) Upon motion of one of the parties, the court may order the parent to post a bond if the court determines that the parent poses an imminent risk of wrongfully removing or concealing the child outside the country of habitual residence. The bond must be in an amount determined by the court and may be used only to pay for the cost of locating the child and returning the child

to his or her habitual residence if the child is wrongfully removed from or concealed outside the country of habitual residence. The fact that a parent has significant commitments in a foreign country does not create a presumption that the parent poses an imminent risk of wrongfully removing or concealing the child.

9. Except where a contract providing otherwise has been executed pursuant to NRS 123.080, the obligation for care, education, maintenance and support of any minor child created by any order entered pursuant to this section ceases:

(a) Upon the death of the person to whom the order was directed; or

(b) When the child reaches 18 years of age if the child is no longer enrolled in high school, otherwise, when the child reaches 19 years of age.

10. As used in this section, a parent has "significant commitments in a foreign country" if the parent:

(a) Is a citizen of a foreign country;

(b) Possesses a passport in his or her name from a foreign country;

(c) Became a citizen of the United States after marrying the other parent of the child; or

(d) Frequently travels to a foreign country.

Sec. 2. Chapter 125C of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 20, inclusive, of this act.

Sec. 3. ***As used in sections 3 to 20, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Custody or visitation order" means:***

1. A judgment, decree or order issued by a court of competent jurisdiction in this State which provides for custody or visitation with respect to a child; and

2. A judgment, decree or order issued by a court of another state which provides for custody or visitation with respect to a child if the judgment, decree or order has been registered in this State pursuant to NRS 125A.465.

Sec. 5. ***"Deployment" means the transfer or reassignment of a member of the military, unaccompanied by any family member, on active duty status in support of combat or another military operation, including, without limitation, temporary duty. The term does not include annual training of a reserve component of the Armed Forces of the United States or of the National Guard.***

Sec. 6. ***"Member of the military" means a person who is presently serving in the Armed Forces of the United States, a reserve component thereof or the National Guard.***

Sec. 7. ***"Parent" means a parent or legal guardian of a child under the age of 18 years.***

Sec. 8. *"Parent who received orders for deployment" means a parent who has received mandatory written orders for deployment and who is awaiting deployment or has been deployed pursuant to those orders.*

Sec. 9. *"Temporary duty" means the transfer of a member of the military, unaccompanied by any family member, from a military base to a different location, including, without limitation, another military base, for a limited time to accomplish training or to assist in the performance of a combat mission.*

Sec. 10. *1. Except as otherwise provided in subsection 2, if a parent who is a member of the military and who has been awarded sole or joint custody or visitation of a child receives mandatory written orders for deployment, the court shall not enter a final order modifying the terms of the existing custody or visitation order until 90 days after the termination of the parent's deployment.*

2. If the matter was fully adjudicated by a court before the parent's deployment, the court may enter such a final order at any time.

Sec. 11. *Deployment or the potential for future deployment must not, by itself, constitute a substantial change in circumstances sufficient to warrant a permanent modification of a custody or visitation order.*

Sec. 12. *1. The court may temporarily modify a custody or visitation order to reasonably accommodate the deployment of a parent. Any such modification by the court of a custody or visitation order shall be deemed a temporary order.*

2. A temporary order issued pursuant to subsection 1 must:

(a) Unless the court determines it is not in the best interest of the child, grant the parent who received orders for deployment reasonable custody or visitation during periods of approved military leave if the existing custody or visitation order granted that parent custody or visitation before deployment;

(b) Include any restrictions concerning custody or visitation set forth in the existing custody or visitation order;

(c) Specify that deployment is the reason for the modification of the existing custody or visitation order; and

(d) Require the other parent to provide the court and the parent who received orders for deployment with written notice of any change of his or her address or telephone number as soon as practicable but not later than 30 days after such change.

3. In issuing a temporary order pursuant to subsection 1, the court shall consider issuing any such appropriate temporary order as will ensure the ability of the parent who received orders for deployment to maintain frequent and continuing contact with the child by means that are reasonably available.

Sec. 13. *1. Except as otherwise provided in subsection 2, a temporary order issued pursuant to section 12 of this act expires by operation of law*

upon the completion of the parent's deployment and the previous custody or visitation order is reinstated.

2. The court may, upon a motion alleging immediate danger of irreparable harm to the child, hold an expedited hearing concerning custody or visitation upon the completion of the parent's deployment.

Sec. 14. *1. If the military duties ~~[prevent]~~ of a parent who received orders for deployment ~~[from appearing]~~ have a material effect on the ability, or anticipated ability, of the parent to appear in person at a regularly scheduled hearing concerning any custody or visitation matters, the court shall, upon a motion of that parent and for good cause shown:*

(a) Hold an expedited hearing;

(b) Allow the parent who received orders for deployment to present testimony and evidence by affidavit or electronic means; or

(c) Both hold an expedited hearing pursuant to paragraph (a) and allow testimony and evidence to be presented pursuant to paragraph (b).

2. As used in this section, "electronic means" includes, without limitation, telephone, videoconference or the Internet.

Sec. 15. *1. Upon a motion by the parent who received orders for deployment, the court may delegate his or her visitation rights, or a portion of those rights, to a family member of that parent who has a substantial relationship with the child if the court determines that such delegated visitation is in the best interest of the child.*

2. In determining whether visitation rights should be delegated to a family member pursuant to subsection 1, the court shall consider the factors set forth in paragraphs (a) to (i), inclusive, of subsection 6 of NRS 125C.050.

3. Any visitation rights delegated to a family member pursuant to subsection 1 terminate upon:

(a) The expiration of a temporary order pursuant to section 13 of this act; or

(b) A showing that the delegated visitation is no longer in the best interest of the child.

4. Nothing in this section increases the authority of a family member who is delegated visitation rights pursuant to subsection 1 to seek separate visitation rights of the child pursuant to NRS 125C.050.

Sec. 16. *If a custody or visitation order has not been issued and a parent's deployment is imminent, the court shall, upon a motion of either parent, hold an expedited hearing for the purpose of issuing a temporary order establishing the custody and visitation arrangement in accordance with sections 3 to 20, inclusive, of this act.*

Sec. 17. *1. If military necessity precludes court adjudication before deployment, the parent who received orders for deployment and the other parent shall cooperate with and provide information to each other in an effort to reach a mutually agreeable resolution with regard to custody and visitation matters.*

2. Except as otherwise provided in this subsection, the parent who received orders for deployment shall, within 10 days after receiving the orders, provide a copy of the orders to the other parent. If the date of deployment is less than 10 days after receipt of the orders, a copy of the orders must be provided immediately to the other parent.

Sec. 18. ***1. If a court in this State has issued a custody or visitation order, the absence of a child from this State during the deployment of a parent shall be deemed a temporary absence for the purposes of NRS 125A.085 and 125A.135 and this State retains exclusive, continuing jurisdiction as provided in NRS 125A.315.***

2. The deployment of a parent may not be used as a basis to assert the issue of inconvenient forum pursuant to NRS 125A.365.

Sec. 19. ***In making a determination pursuant to sections 3 to 20, inclusive, of this act, a court may award costs and reasonable attorney's fees against any parent:***

1. Who the court determines caused unreasonable delays;

2. Who failed to provide any information required pursuant to sections 3 to 20, inclusive, of this act; and

3. In such other circumstances as the court deems proper.

Sec. 20. ***The provisions of sections 3 to 20, inclusive, of this act do not apply to any custody or visitation arrangement requested in a verified application for a temporary or extended order for protection against domestic violence filed pursuant to NRS 33.020.***

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 adds Senator Gustavson as the primary Senate sponsor and makes two other changes to the bill.

First, it adds a provision in Section 12 that when issuing a temporary custody or visitation order that accommodates deployment of a parent serving in the military, the court must consider ensuring that the parent who received deployment orders is able to maintain frequent and continuing contact to a reasonable extent; and second, it amends Section 14 to authorize the parent who is being deployed to seek an expedited hearing and/or present testimony by affidavit or electronic means, if the military duties of that parent have a material affect on the ability of the parent to appear in person at the hearing.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 317.

Bill read second time and ordered to third reading.

Assembly Bill No. 318.

Bill read second time and ordered to third reading.

Assembly Bill No. 362.

Bill read second time.

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

Amendment No. 610.

"SUMMARY—Revises provisions governing education. (BDR 38-782)"

"AN ACT relating to education; establishing the Interim Task Force on Out-of-School-Time Programs; requiring the Task Force to prescribe standards for out-of-school-time programs and to make certain recommendations relating to out-of-school-time programs; exempting an out-of-school-time program from licensure and regulation as a child care facility; authorizing an out-of-school-time program to report certain information to the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill defines an "out-of-school-time program" as a program that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of school age and provides regularly scheduled, structured and supervised activities where learning opportunities take place during times when a child is not in school. **Section 5** of this bill exempts an out-of-school-time program from the licensing requirements for and regulation as a child care facility by excluding an out-of-school-time program from the definition of a "child care facility." **Sections 6-8** of this bill ensure that the existing definition of "child care facility" is not changed for certain other purposes.

Section 9 of this bill establishes the Interim Task Force on Out-of-School-Time Programs and requires the Task Force to prescribe standards for out-of-school-time programs and make certain other recommendations concerning out-of-school-time programs. **Section 9** also requires the Task Force to submit a report of its recommendations to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

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

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

Sec. 2. ~~*[1.]*~~ ***"Out-of-school-time program" means a program that operates for 10 or more hours per week, is offered on a continuing basis, provides supervision of children who are of*** ~~*[school]*~~ ***the age to attend school from kindergarten through 12th grade and provides regularly scheduled, structured and supervised activities where learning opportunities take place:***

~~*[(a)]*~~ ***1. Before or after school;***

~~*[(b)]*~~ ***2. On the weekend;***

3. During the summer or other seasonal breaks in the school calendar; or

~~[(c)]~~ ***4. Between sessions for children who attend a school which operates on a year-round calendar.***

~~[2. The term does not include programs for children which have a single focus or activity, which may include, without limitation, religious education, instruction in music, participation in a sport, tutoring or participation in a club.]~~

Sec. 3. (Deleted by amendment.)

Sec. 4. 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 section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 5. 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 at which an out-of-school-time program is operated.

Sec. 6. 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;

(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 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. 7. 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. "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.

Sec. 8. 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. 9. 1. There is hereby created the Interim Task Force on Out-of-School-Time Programs. The Task Force is composed of the following 12 members:

(a) A representative of the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services, appointed by the Administrator of the Division;

(b) A representative of local governmental agencies that provide public services for children, appointed by the Nevada Association of Counties or its successor organization;

(c) A representative of the Nevada System of Higher Education, appointed by the Board of Regents of the University of Nevada;

(d) A representative of the public schools in this State, appointed by the State Board of Education;

(e) A representative of a national nonprofit organization that provides services to children, appointed by the Legislative Commission;

(f) A representative of a nonprofit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(g) A representative of a nonprofit organization that is located in Nevada and provides support to an out-of-school-time program, appointed by the Legislative Commission;

(h) A representative of a private, for profit organization that is located in Nevada and provides services to children, appointed by the Legislative Commission;

(i) A representative of an agency that provides resources and referrals to out-of-school-time programs, appointed by the Legislative Commission;

(j) A representative of a faith-based organization that provides services to children, appointed by the Legislative Commission; and

(k) Two members who are parents of children in this State, appointed by the Legislative Commission.

2. The Administrator of the Division of Child and Family Services of the Department of Health and Human Services, the Nevada Association of Counties, the Board of Regents of the University of Nevada, the State Board of Education and the Legislative Commission shall appoint the members of the Task Force as soon as practicable after July 1, 2011. A vacancy on the Task Force must be filled in the same manner as the original appointment.

3. The Task Force shall meet on or before October 1, 2011, and at its first meeting the members of the Task Force shall elect a Chair from among the members. A majority of the members of the Task Force constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Task Force.

4. The Task Force shall meet at least once every 3 months and at the call of the Chair or a majority of the members of the Task Force.

5. Each member of the Task Force serves without compensation. Each member of the Task Force who is an officer or employee of the State or a local government must be relieved from his or her duties without loss of his or her regular compensation to prepare for and attend meetings of the Task Force and perform any work necessary to carry out the duties of the Task Force in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Task Force to make up the time the member is absent from work to carry out his or her duties as a member and shall not require the member to take annual vacation or compensatory time for the absence.

6. The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services shall provide administrative support to the Task Force and may accept assistance from a nonprofit organization in providing such support.

7. The Task Force shall:

(a) Prescribe standards for out-of-school-time programs;

(b) Make recommendations concerning out-of-school-time programs and the implementation of the standards prescribed by the Task Force, including, without limitation, recommendations for a pilot program for the standards; and

(c) Make recommendations concerning whether out-of-school-time programs should be licensed and regulated by the Bureau of Services for Child Care.

8. The Task Force shall, on or before June 30, 2012, submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature. The report must include, without limitation:

(a) A full and detailed description of the standards for out-of-school-time programs prescribed by the Task Force;

(b) Recommendations concerning the establishment of a pilot program for the standards prescribed by the Task Force;

(c) Recommendations concerning whether out-of-school-time programs should be licensed and regulated by the Bureau of Services for Child Care; and

(d) Any other recommendations for legislation relating to out-of-school-time programs.

9. An out-of-school-time program may register with the Bureau of Services for Child Care or other entity designated by the Bureau. By registering with the Bureau, the out-of-school-time program agrees to comply with the standards established by the Task Force and to participate in any pilot project established pursuant to subsection 8.

10. As used in this section, "out-of-school-time program" has the meaning ascribed to it in section 2 of this act.

Sec. 10. 1. This act becomes effective on July 1, 2011.

2. Section 9 of this act expires by limitation on June 30, 2013.

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. 610 revises Assembly Bill No. 362 by specifying that the programs provide for the supervision of children who attend school from kindergarten through 12th grade and that the activities where learning opportunities take place may be on the weekend. It removes the language that specified that certain programs are not included in the definition of an "out-of-school-time program." This change is to address concerns that by specifying that the term did not include programs for children who have a single focus or activity, an implication may be made that these programs are not exempt from the requirement to be licensed as a childcare facility.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 365.

Bill read second time and ordered to third reading.

Assembly Bill No. 373.

Bill read second time and ordered to third reading.

Assembly Bill No. 410.

Bill read second time.

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

Amendment No. 590.

"SUMMARY—Revises provisions relating to the filing by a governmental entity of a protest against the granting of certain applications relating to water rights. (BDR 48-360)"

"AN ACT relating to water; requiring that protests against the granting of certain applications relating to water rights by a government, governmental agency or political subdivision of a government be verified or signed by the person in charge of the government, agency or political subdivision; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, any interested person, including a governmental entity, is authorized to file a written protest with the State Engineer against the granting of an application for a permit to appropriate water or to change the place of diversion, the manner of use or the place of use of water already appropriated. (NRS 533.010, 533.325, 533.365) In addition, any person, including a governmental entity, who may be adversely affected by a project for the recharge, storage and recovery of water is authorized under existing law to file a written protest with the State Engineer against the granting of an application for a permit to operate the project. (NRS 534.014, 534.250, 534.270)

This bill requires that any protest which is filed by a government, governmental agency or political subdivision against the granting of an application for a permit to change the place of diversion, the manner of use or the place of use of water already appropriated within the same basin or for a permit to operate a project for the recharge, storage and recovery of water be verified or signed by the director, administrator, chief, head or other person in charge of that government, governmental agency or political subdivision. However, this bill does not change the requirements under existing law for a protest by a government, governmental agency or political subdivision against the granting of an application for a permit to appropriate water or an application that involves an interbasin transfer of groundwater. (NRS 533.365)

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

Section 1. NRS 533.365 is hereby amended to read as follows:

533.365 1. Any person interested may, within 30 days after the date of last publication of the notice of application, file with the State Engineer a written protest against the granting of the application, setting forth with reasonable certainty the grounds of such protest, which ***, except as otherwise provided in subsection 2,*** must be verified by the affidavit of the protestant, or an agent or attorney thereof.

2. ***If the application is for a permit to change the place of diversion, manner of use or place of use of water already appropriated within the same basin, a protest filed against the granting of such an application by a government, governmental agency or political subdivision of a government must be verified by the affidavit of:***

(a) Except as otherwise provided in paragraph (b), the director, administrator, chief, head or other person in charge of the government, governmental agency or political subdivision; or

(b) If the governmental agency or political subdivision is a division or other part of a department, the director or other person in charge of that department in this State, including, without limitation:

(1) The ~~***[Forest Supervisor for the Humboldt-Toiyabe National Forest,]***~~ ***Regional Forester for the Intermountain Region, if the protest is filed by the United States Forest Service;***

(2) The State Director of the Nevada State Office of the Bureau of Land Management, if the protest is filed by the Bureau of Land Management;

(3) The Regional Director of the Pacific Southwest Region, if the protest is filed by the United States Fish and Wildlife Service;

(4) The Regional Director of the Pacific West Region, if the protest is filed by the National Park Service;

(5) The Director of the State Department of Conservation and Natural Resources, if the protest is filed by any division of that Department; or

~~[(5)]~~ ***(6) The chair of the board of county commissioners, if the protest is filed by a county.***

3. On receipt of a protest ~~[,]~~ ***that complies with the requirements of subsection 1 or 2,*** the State Engineer shall advise the applicant whose application has been protested of the fact that the protest has been filed with the State Engineer, which advice must be sent by certified mail.

~~[3.]~~ ***4.*** The State Engineer shall consider the protest, and may, in his or her discretion, hold hearings and require the filing of such evidence as the State Engineer may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

~~[4.]~~ ***5.*** Each applicant and each protestant shall, in accordance with a schedule established by the State Engineer, provide to the State Engineer and to each protestant and each applicant information required by the State Engineer relating to the application or protest.

~~[5.]~~ ***6.*** If the State Engineer holds a hearing pursuant to subsection ~~[3,]~~ ***4,*** the State Engineer shall render a decision on each application not later than 240 days after the later of:

(a) The date all transcripts of the hearing become available to the State Engineer; or

(b) The date specified by the State Engineer for the filing of any additional information, evidence, studies or compilations requested by the State Engineer. The State Engineer may, for good cause shown, extend any applicable period.

~~[6.]~~ ***7.*** The State Engineer shall adopt rules of practice regarding the conduct of a hearing held pursuant to subsection ~~[3.]~~ ***4.*** The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

~~[7.]~~ ***8.*** The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.

Sec. 2. NRS 534.270 is hereby amended to read as follows:

534.270 1. Upon receipt of an application for a permit to operate a project, the State Engineer shall endorse on the application the date it was received and keep a record of the application. The State Engineer shall conduct an initial review of the application within 45 days after receipt of the application. If the State Engineer determines in the initial review that the application is incomplete, the State Engineer shall notify the applicant. The application is incomplete until the applicant files all the information requested in the application. The State Engineer shall determine whether the application is correct within 180 days after receipt of a complete application.

The State Engineer may request additional information from the applicant. The State Engineer may conduct such independent investigations as are necessary to determine whether the application should be approved or rejected.

2. If the application is determined to be complete and correct, the State Engineer, within 30 days after such a determination or a longer period if requested by the applicant, shall cause notice of the application to be given once each week for 2 consecutive weeks in a newspaper of general circulation in the county or counties in which persons reside who could reasonably be expected to be affected by the project. The notice must state:

(a) The legal description of the location of the proposed project;

(b) A brief description of the proposed project including its capacity;

(c) That any person who may be adversely affected by the project may file a written protest with the State Engineer within 30 days after the last publication of the notice;

(d) The date of the last publication;

(e) That the grounds for protesting the project are limited to whether the project would be in compliance with subsection 2 of NRS 534.250;

(f) The name of the applicant; and

(g) That a protest must:

(1) State the name and mailing address of the protester;

(2) Clearly set forth the reason why the permit should not be issued; and

(3) Be signed by the protester or the protester's agent or attorney ~~[.]~~ ***or, if the protester is a government, governmental agency or political subdivision of a government, be approved and signed in the manner specified in paragraph (g) of subsection 3.***

3. A protest to a proposed project:

(a) May be made by any person who may be adversely affected by the project;

(b) Must be in writing;

(c) Must be filed with the State Engineer within 30 days after the last publication of the notice;

(d) Must be upon a ground listed in subsection 2 of NRS 534.250;

(e) Must state the name and mailing address of the protester;

(f) Must clearly set forth the reason why the permit should not be issued; and

(g) ~~[Must]~~ ***Except as otherwise provided in this paragraph, must*** be signed by the protester or the protester's agent or attorney. ***If the protester is a government, governmental agency or political subdivision of a government, the protest must be:***

(1) Except as otherwise provided in subparagraph (2), approved and signed by the director, administrator, chief, head or other person in charge of the government, governmental agency or political subdivision; or

(2) If the governmental agency or political subdivision is a division or other part of a department, approved and signed by the director or other

person in charge of that department in this State, including, without limitation:

(I) The ~~[Forest Supervisor for the Humboldt-Toiyabe National Forest,]~~ Regional Forester for the Intermountain Region, if the protest is filed by the United States Forest Service;

(II) The State Director of the Nevada State Office of the Bureau of Land Management, if the protest is filed by the Bureau of Land Management;

(III) The Regional Director of the Pacific Southwest Region, if the protest is filed by the United States Fish and Wildlife Service;

(IV) The Regional Director of the Pacific West Region, if the protest is filed by the National Park Service;

(V) The Director of the State Department of Conservation and Natural Resources, if the protest is filed by any division of that Department; or

~~[(V)]~~ (VI) The chair of the board of county commissioners, if the protest is filed by a county.

4. Upon receipt of a protest, the State Engineer shall advise the applicant by certified mail that a protest has been filed.

5. Upon receipt of a protest, or upon the motion of the State Engineer, the State Engineer may hold a hearing. Not less than 30 days before the hearing, the State Engineer shall send by certified mail notice of the hearing to the applicant and any person who filed a protest.

6. The State Engineer shall either approve or deny each application within 1 year after the final date for filing a protest, unless the State Engineer has received a written request from the applicant to postpone making a decision or, in the case of a protested application, from both the protester and the applicant. The State Engineer may delay action on the application pursuant to paragraph (c) of subsection 2 of NRS 533.370.

7. Any person aggrieved by any decision of the State Engineer made pursuant to subsection 6 may appeal that decision to the district court pursuant to NRS 533.450.

Sec. 3. 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. 590 to Assembly Bill No. 410 clarifies, for those water application protests filed by the U.S. Forest Service, that the protest affidavit must be verified by the Intermountain Regional Office of the Director of Lands and Minerals. It also clarifies, for those water application protests filed by the National Park Service, that the protest affidavit must be verified by the Regional Director of the Pacific West Region of the National Park Service.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 477.

Bill read second time and ordered to third reading.

Assembly Bill No. 533.

Bill read second time.

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

Amendment No. 588.

"SUMMARY—Provides certain financial protections for residents of group homes and similar facilities. (BDR 40-673)"

"AN ACT relating to group homes; providing certain financial protections for residents of group homes and similar facilities; **providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill prohibits the owner or administrator of a medical facility, facility for the dependent or home for individual residential care from receiving: (1) money or property devised by the will of a current or former resident of the facility or home; and (2) proceeds from a life insurance policy upon the life or body of a current or former resident of the facility or home. Under **section 1**, such an owner or administrator is deemed to have predeceased the resident and, as a result, the money, property and proceeds are then distributed to other devisees (in the case of a will) or other beneficiaries (in the case of a life insurance policy). In the event that there is no other devisee or beneficiary, the laws of this State pertaining to testate and intestate succession would control. **Section 1** does not apply in the instance in which the owner or administrator of the facility or home is the spouse, legal guardian or next of kin of the resident or former resident.

Under existing law, a principal may not name his or her provider of health care, an employee of the provider of health care or an operator or employee of a health care facility as his or her agent in a power of attorney for health care; however, an exception is set forth if the provider, operator or employee is the principal's spouse, legal guardian or next of kin. (NRS 162A.840) **Section 3** of this bill establishes a broader prohibition in the context of group homes and similar facilities, providing that a person who resides or is about to reside in a hospital, assisted living facility or facility for skilled nursing may not name such a facility or an owner, operator or employee of such a facility as his or her agent in any power of attorney for any purpose. The prohibition set forth in **section 3** does not apply if the owner, operator or employee is the resident's (principal's) spouse, legal guardian or next of kin ~~[.]~~ **or, when certain conditions are met, if the owner, operator or employee is assisting the principal to establish eligibility for Medicaid. Section 3 further makes it a category C felony to use a power of attorney which is created for the purpose of assisting a principal to establish eligibility for Medicaid for any other purpose or in a manner inconsistent with the provisions of the power of attorney.**

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 a new section to read as follows:

1. Except as otherwise provided in subsection 3 and notwithstanding any other provision of law, an owner or administrator of a medical facility, facility for the dependent or home for individual residential care is not entitled to receive, and must not receive:

(a) Any money, personal property or real property that is devised or bequeathed by will to the owner or administrator by a resident or former resident of the facility or home, as applicable.

(b) Any proceeds from a life insurance policy upon the life or body of a resident or former resident of the facility or home, as applicable.

2. Except as otherwise provided in subsection 3, any money, property, proceeds or interest therein that is described in subsection 1 passes in accordance with law as if the owner or administrator of the medical facility, facility for the dependent or home for individual residential care had predeceased the decedent resident or former resident.

3. The provisions of subsections 1 and 2 do not apply if the owner or administrator of the medical facility, facility for the dependent or home for individual residential care is the spouse, legal guardian or next of kin of the resident or former resident of the facility or home, as applicable.

Sec. 2. NRS 449.730 is hereby amended to read as follows:

449.730 1. Every medical facility, facility for the dependent and home for individual residential care shall inform each patient or the patient's legal representative, upon the admission of the patient to the facility or home, of the patient's rights as listed in NRS 449.700, 449.710, 449.715 ***,*** ~~[and]~~ 449.720 ~~[.]~~ ***and section 1 of this act.***

2. In addition to the requirements of subsection 1, if a person with a disability is a patient at a facility, as that term is defined in NRS 449.771, the facility shall inform the patient of his or her rights pursuant to NRS 449.765 to 449.786, inclusive.

3. In addition to the requirements of subsections 1 and 2, every hospital shall, upon the admission of a patient to the hospital, provide to the patient or the patient's legal representative a written disclosure approved by the Director ***of the Department of Health and Human Services***, which written disclosure must set forth:

(a) Notice of the existence of the Bureau for Hospital Patients created pursuant to NRS 223.575;

(b) The address and telephone number of the Bureau; and

(c) An explanation of the services provided by the Bureau, including, without limitation, the services for dispute resolution described in subsection 3 of NRS 223.575.

4. In addition to the requirements of subsections 1, 2 and 3, every hospital shall, upon the discharge of a patient from the hospital, provide to

the patient or the patient's legal representative a written disclosure approved by the Director, which written disclosure must set forth:

(a) If the hospital is a major hospital:

(1) Notice of the reduction or discount available pursuant to NRS 439B.260, including, without limitation, notice of the criteria a patient must satisfy to qualify for a reduction or discount under that section; and

(2) Notice of any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons, which policies and procedures are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260. The notice required by this subparagraph must describe the criteria a patient must satisfy to qualify for the additional reduction or discount, including, without limitation, any relevant limitations on income and any relevant requirements as to the period within which the patient must arrange to make payment.

(b) If the hospital is not a major hospital, notice of any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons. The notice required by this paragraph must describe the criteria a patient must satisfy to qualify for the reduction or discount, including, without limitation, any relevant limitations on income and any relevant requirements as to the period within which the patient must arrange to make payment.

➥ As used in this subsection, "major hospital" has the meaning ascribed to it in NRS 439B.115.

5. In addition to the requirements of subsections 1 to 4, inclusive, every hospital shall post in a conspicuous place in each public waiting room in the hospital a legible sign or notice in 14-point type or larger, which sign or notice must:

(a) Provide a brief description of any policies and procedures the hospital may have adopted to reduce charges for services provided to persons or to provide discounted services to persons, including, without limitation:

(1) Instructions for receiving additional information regarding such policies and procedures; and

(2) Instructions for arranging to make payment;

(b) Be written in language that is easy to understand; and

(c) Be written in English and Spanish.

Sec. 3. NRS 162A.220 is hereby amended to read as follows:

162A.220 1. A power of attorney must be signed by the principal or, in the principal's conscious presence, by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

2. If the principal resides in a hospital, assisted living facility or facility for skilled nursing at the time of execution of the power of attorney, a

certification of competency of the principal from a physician, psychologist or psychiatrist must be attached to the power of attorney.

3. ***If the principal resides or is about to reside in a hospital, assisted living facility or facility for skilled nursing at the time of execution of the power of attorney, in addition to the prohibition set forth in NRS 162A.840 and except as otherwise provided in subsection 4, the principal may not name as agent in any power of attorney for any purpose:***

(a) The hospital, assisted living facility or facility for skilled nursing;

(b) An owner or operator of the hospital, assisted living facility or facility for skilled nursing; or

(c) An employee of the hospital, assisted living facility or facility for skilled nursing.

4. The principal may name as agent any person identified in subsection 3 if that person is ~~[the]~~ :

(a) The spouse, legal guardian or next of kin of the principal ~~.~~] ; or

(b) Named only for the purpose of assisting the principal to establish eligibility for Medicaid and the power of attorney complies with the provisions of subsection 5.

5. A person may be named as agent pursuant to paragraph (b) of subsection 4 only if:

(a) A valid financial power of attorney for the principal does not exist;

(b) The agent has made a good faith effort to contact each family member of the principal identified in the records of the hospital, assisted living facility or facility for skilled nursing, as applicable, to request that the family member establish a financial power of attorney for the principal and has documented his or her effort;

(c) The power of attorney specifies that the agent is only authorized to access financial documents of the principal which are necessary to prove eligibility of the principal for Medicaid as described in the application for Medicaid and specifies that any request for such documentation must be accompanied by a copy of the application for Medicaid or by other proof that the document is necessary to prove eligibility for Medicaid;

(d) The power of attorney specifies that the agent does not have authority to access money or any other asset of the principal for any purpose; and

(e) The power of attorney specifies that the power of attorney is only valid until eligibility of the principal for Medicaid is determined or 6 months after the power of attorney is signed, whichever is sooner.

6. A person who is named as agent pursuant to paragraph (b) of subsection 4 shall not use the power of attorney for any purpose other than to assist the principal to establish eligibility for Medicaid and shall not use the power of attorney in a manner inconsistent with the provisions of subsection 5. A person who violates the provisions of this subsection is guilty of a category C felony and shall be punished as provided in NRS 193.130.

7. As used in this section:

(a) "Assisted living facility" has the meaning ascribed to it in NRS 422.2708.

(b) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

Sec. 4. Except as otherwise provided in this act:

1. This act applies to a life insurance policy, power of attorney or will created before, on or after July 1, 2011.

2. This act applies to a judicial proceeding concerning a life insurance policy, power of attorney or will commenced on or after July 1, 2011.

3. This act applies to a judicial proceeding concerning a life insurance policy, power of attorney or will commenced before July 1, 2011, unless the court finds that the application of a provision of this act would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies.

4. An act done before July 1, 2011, is not affected by this act.

Sec. 5. 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. 588 revises Assembly Bill No. 533 by authorizing the owner, operator, or employees of certain facilities to be named as a resident's agent in a power of attorney for the specific purpose of establishing eligibility for Medicaid under certain specific circumstances.

The measure makes it a category C felony to use such a power of attorney for any other purpose or in a manner inconsistent with the provisions of the power of attorney.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 534.

Bill read second time and ordered to third reading.

Assembly Bill No. 535.

Bill read second time.

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

Amendment No. 589.

"SUMMARY—Revises provisions governing the referral of persons to residential facilities for groups. (BDR 40-674)"

"AN ACT relating to residential facilities for groups; revising provisions governing the referral of persons to such facilities; requiring the State Board of Health to track certain violations and to disseminate certain information to the public; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

To operate a business which provides referrals to residential facilities for groups, existing law provides that a person must obtain a license from the State Board of Health. Also under existing law, a business so licensed and its employees are prohibited from referring a person to a residential facility for groups if the facility is unlicensed or if the facility is owned by the same person who owns the business. A person who violates that prohibition is subject to a civil penalty. Existing law does not address referrals to residential facilities for groups that are made directly by individual providers of health care, and specifically exempts medical facilities that were already licensed as of October 1, 1999. (NRS 449.0305)

Section 3 of this bill adds to the list of activities in which a business licensed to provide referrals to residential facilities for groups, and its employees, may not engage by prohibiting a business so licensed and its employees from referring a person to a residential facility for groups if the business or its employee knows or reasonably should know that the facility or its services are not appropriate for the condition of the person being referred. **Section 1** of this bill prohibits a licensed medical facility and its employees from: (1) referring a person to a residential facility for groups that is not licensed ~~[,]~~ **by the Health Division of the Department of Health and Human Services;** and (2) referring a person to a residential facility for groups if the licensed medical facility or its employee knows or reasonably should know that the residential facility for groups, or the services provided by the residential facility for groups, are not appropriate for the condition of the person being referred. **"Licensed medical facility" is defined to include medical facilities and facilities for the dependent that are licensed by the Health Division and other facilities that provide medical care and treatment and which are required to be licensed by the State Board of Health.** If a licensed medical facility or an employee of the licensed medical facility violates the prohibitions established by **section 1**, the licensed medical facility is liable to the State Board of Health for a civil penalty of not more than $10,000 for a first offense, and of not less than $10,000 or more than $20,000 for a second or subsequent offense. **Section 1** also requires the State Board of Health to establish and maintain a system to track violations of **section 1** and NRS 449.0305, and directs the Board to educate the public regarding the requirements and prohibitions set forth in those sections.

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 a new section to read as follows:

1. In addition to the requirements and prohibitions set forth in NRS 449.0305, and notwithstanding any exceptions set forth in that section, a licensed medical facility or an employee of such a medical facility shall not:

(a) Refer a person to a residential facility for groups that is not licensed ~~[.]~~ by the Health Division;

(b) Refer a person to a residential facility for groups if the licensed medical facility or its employee knows or reasonably should know that the residential facility for groups, or the services provided by the residential facility for groups, are not appropriate for the condition of the person being referred.

2. If a licensed medical facility or an employee of such a medical facility violates the provisions of subsection 1, the licensed medical facility is liable for a civil penalty to be recovered by the Attorney General in the name of the Board for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 or more than $20,000. Unless otherwise required by federal law, the Board shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the enforcement of this section and the protection of the health, safety, well-being and property of residents of residential facilities for groups.

3. The Board shall:

(a) Establish and maintain a system to track violations of this section and NRS 449.0305. Except as otherwise provided in this paragraph, records created by or for the system are public records and are available for public inspection. The following information is confidential:

(1) Any personally identifying information relating to a person who is referred to a residential facility for groups.

(2) Information which may not be disclosed under federal law.

(b) Educate the public regarding the requirements and prohibitions set forth in this section and NRS 449.0305.

4. As used in this section, "licensed medical facility" means:

(a) A medical facility that is required to be licensed pursuant to this section and NRS 449.001 to 449.240, inclusive.

(b) A facility for the dependent that is required to be licensed pursuant to this section and NRS 449.001 to 449.240, inclusive.

(c) A facility that provides medical care or treatment and is required by regulation of the Board to be licensed pursuant to NRS 449.038.

Sec. 2. NRS 449.030 is hereby amended to read as follows:

449.030 1. No person, state or local government or agency thereof may operate or maintain in this State any medical facility or facility for the dependent without first obtaining a license therefor as provided in NRS 449.001 to 449.240, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Unless licensed as a facility for hospice care, a person, state or local government or agency thereof shall not operate a program of hospice care without first obtaining a license for the program from the Board.

Sec. 3. NRS 449.0305 is hereby amended to read as follows:

449.0305 1. Except as otherwise provided in subsection 5, a person must obtain a license from the Board to operate a business that provides referrals to residential facilities for groups.

2. The Board shall adopt:

(a) Standards for the licensing of businesses that provide referrals to residential facilities for groups;

(b) Standards relating to the fees charged by such businesses;

(c) Regulations governing the licensing of such businesses; and

(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) ***Refer a person to a residential facility for groups if the business or its employee knows or reasonably should know that the facility, or the services provided by the facility, are not appropriate for the condition of the person being referred.***

(c) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

➥ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the ~~[~~State~~]~~ Board ~~[~~of Health~~]~~ for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 nor more than $20,000. Unless otherwise required by federal law, the ~~[~~State~~]~~ Board ~~[~~of Health~~]~~ shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used for the enforcement of this section and the protection of the health, safety, well-being and property of residents of residential facilities for groups.

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, ***and section 1 of this act*** on October 1, 1999.

Sec. 4. 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, ***or section 1 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. 5. 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. 589 revises Assembly Bill No. 535 by specifying that the facility, to which someone may be referred, must be licensed by the Health Division, Division of Health and Human Services and by clarifying that licensed "medical facility" for the purpose of the measure refers to a facility for the dependent in addition to a medical facility.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 564.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

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

Senate in recess at 12:31 p.m.

SENATE IN SESSION

At 1:27 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

By Senators Kihuen, Denis, Breeden, Brower, Cegavske, Copening, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, Lee, Leslie, Manendo, McGinness, Parks, Rhoads, Roberson, Schneider, Settelmeyer, Wiener; Assemblymen Diaz, Segerblom, Bustamante Adams, Benitez-Thompson, Brooks, Aizley, Anderson, Atkinson, Bobzien, Carlton, Carrillo, Conklin, Daly, Dondero Loop, Ellison, Flores, Frierson, Goedhart, Goicoechea, Grady, Hambrick, Hammond, Hansen, Hardy, Hickey, Hogan, Horne, Kirkpatrick, Kirner, Kite, Livermore, Mastroluca, McArthur, Munford, Neal, Oceguera, Ohrenschall, Pierce, Sherwood, Smith, Stewart and Woodbury:

Senate Concurrent Resolution No. 12—Memorializing visionary leader, businessman and advocate Edmundo "Eddie" Escobedo, Sr.

WHEREAS, With great sadness and expressions of tremendous loss, Nevadans mourned the passing of Edmundo "Eddie" Escobedo, Sr., on October 15, 2010; and

WHEREAS, Eddie was born in Mexico in 1932 and after moving to El Paso, Texas, enlisted in the United States Air Force and served at Nellis Air Force Base, where he worked with sheet metal and as a jet mechanic and parachute rigger, sometimes packing parachutes for the world-famous Thunderbirds; and

WHEREAS, After his honorable discharge, this energetic young man adopted Las Vegas as his hometown, worked two jobs for several years, saved his money and entered the entertainment arena as a promoter of movie stars and performers in various arts; and

WHEREAS, Eddie later opened a movie theater and was elected three times as President of the Spanish Pictures Exhibitors Association, and while serving in that role, brought to Las Vegas the annual conventions that are the Spanish version of the Oscars; and

WHEREAS, In 1980, Eddie took a step into the world of written media when he and his eldest son began publishing a small weekly newspaper, *El Mundo*, which began with 16 pages and advertising that was practically given away but today has a circulation of close to 40,000 and is an undisputed voice of Hispanics in Nevada; and

WHEREAS, Because of the tremendous success of *El Mundo*, Eddie was chosen as President of the National Association of Hispanic Publications and President of the National Hispanic Press Foundation, and in that capacity, he raised large amounts of money for scholarships and internships; and

WHEREAS, Other business endeavors in Las Vegas included co-ownership of a highly successful radio station in the Spanish language, investments in real estate and construction of the Escobedo Professional Plaza; and

WHEREAS, While this visionary leader, businessman and advocate for the Hispanic community was the epitome of the American Dream, he was never too busy living that dream to spend countless hours to support, encourage and inspire others through individual efforts, through the establishment and promotion of community organizations and events and in the political sphere, volunteering in campaigns and encouraging people to vote; and

WHEREAS, Among the abundant awards Eddie received are the Premio Ohtli, one of the highest awards given by the Mexican Government, the Gentleman of Excellence award for community leaders and the prestigious Lifetime Achievement Award from the National Association of Hispanic Publications; and

WHEREAS, A few of the honors bestowed upon him were his selection as Hispanic of the Month by the City of Las Vegas and Hispanic of the Year by the Latin Chamber of Commerce and, in 2005, the enduring honor of having a middle school named after him; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Session of the Nevada Legislature do hereby extend their earnest condolences to the family and friends of Edmundo Escobedo, Sr.; and be it further

RESOLVED, That Edmundo Escobedo will forever remain in the hearts and minds of all whose lives he touched and enriched, and his name will never be forgotten in the annals of our State; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Eddie's beloved wife of over 50 years, Maria, and to his children Edmundo, Jr., Nicolas, Hilda and Victor.

Senator Kihuen moved the adoption of the resolution.

Remarks by Senators Kihuen and Denis.

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

SENATOR KIHUEN:

Thank you, Mr. President. The resolution does an excellent job of illustrating Mr. Escobedo's life. Most of us from southern Nevada remember Mr. Escobedo as the founder and owner of *El Mundo* newspaper. What many of us do not remember is that he was not just a successful businessman, but Mr. Escobedo was also a veteran of the U.S. Armed Forces. He was a radio and television personality. He was a wonderful husband and father. To me, personally, he was a great mentor and a trustworthy friend who I relied on constantly for advice both in my professional and my personal life. He gave me advice about relationships. He was married for over 50 years, so his advice was well taken.

I had the pleasure of meeting Mr. Escobedo while I was in high school and was playing soccer. I was Player of the Year and he was the first person to give me newspaper coverage. He put me on the front page of the newspaper. He took me under his wing.

Mr. Escobedo was one of the pioneers of the Hispanic community. He came to Las Vegas in the 1950s. He was known as the Godfather of the Hispanic community. Elected officials from both the Republican and Democratic sides visited him at his office to ask for his support. His newspaper is the largest Spanish newspaper in the State. President Obama and Hillary Clinton had his personal cell phone number. They knew him by his first name. Every candidate who wanted to run for office and who wanted to earn the vote in east Las Vegas visited him. He would listen and then he would make his endorsements. Those endorsements came out in the *El Mundo* newspaper for hundreds of thousands to see. For many of us, Mr. Escobedo was important to us not only for the work he did in the community but because he was a close friend.

Mr. Escobedo used to organize events and one of them was Navidad en el Barrio, Christmas in the Barrio. He would provide free toys and free food to thousands of families. The recession has caused much suffering for families and the past celebrations served at least 5,000 families who stood in line from 4:30 a.m. to 3:00 p.m. He did that for many years. He provided toys and food for those families who had no money.

The Hispanic population in Clark County is at nearly 33 percent. Cinco de Mayo and the Mexican Independence Day celebration in Las Vegas are important. The people who live here and attend these events are Americanized. They love this country, but they do want to celebrate some of their traditions. Mr. Escobedo organized the Cinco de Mayo celebrations as well as the Mexican Independence Day celebrations. When you go to the celebrations and you stand on the stage to give a speech, you see 5,000 to 10,000 people at these celebrations. These are people who knew Mr. Escobedo, were there to support him and their community. When I think of Mr. Escobedo, I think of those events. At this past Cinco de Mayo, I spoke at the celebration. I was very emotional because this was the first celebration I attended without Mr. Escobedo being there. He was respected by both Republicans and Democrats. We will really miss him.

We have a Hispanic caucus in the Legislature. For the first time in many years, there are more than two members in the Hispanic caucus. We have eight members, actually nine with Shelia Leslie as an honorary member. The work Mr. Escobedo did throughout the years for Las Vegas and the State of Nevada helped pave the way for people such as myself and Senator Denis. We have known Mr. Escobedo for a long time.

Before Mr. Escobedo was the successful man that he became, he worked at the Sahara Hotel and Casino, which recently closed its doors. He was a bartender and that is how he met Congresswoman Shelley Berkley in the 1970s when she was a waitress. Little did they know at that time that they would go on to become some of the most prominent residents of our State. Until his death, Rep. Berkley called him once a month to make certain he was all right. When he was sick, she would call him and so would President Obama to ask how he was doing.

Mr. Escobedo was not an average citizen. He influenced hundreds of thousands of families, including my own. Before I was born, Mr. Escobedo was contributing to our State. He was paving the way for the young, immigrant Mexican kid who could come to this country to succeed and to have the same opportunities as everyone else. He was a friend. He was a second father. As the first Hispanic immigrant to serve in this body, I would like to recognize one of the people who helped pave the way for me. Thank you, Mr. President.

SENATOR DENIS:

I knew Mr. Escobedo for many years. We called him Eddie. He was a great example to all of us who serve in the community. He talked about his family and about the things he would do with his family, but he was always at a community event trying to help others. I am thankful that I had an opportunity to get to know Eddie. I am thankful for the work that he did. We can never fill his shoes, but we can carry on his legacy in the work that we do.

Thank you.

Resolution adopted.

Senator Kihuen moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 12 be immediately transmitted to the Assembly.

Motion carried unanimously.

GENERAL FILE AND THIRD READING

Senate Bill No. 442.

Bill read third time.

Roll call on Senate Bill No. 442:

YEAS—21.

NAYS—None.

Senate Bill No. 442 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 23, 39, 40, 110, 113, 115, 130, 141, 145, 146, 182, 196, 200, 233, 237, 249, 280, 290, 306, 368, 395, 396, 420, 422, 451, 454, 472, 480, 544, 551; Assembly Joint Resolution No. 1, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 14, 35, 51, 229; Senate Joint Resolution No. 8; Senate Concurrent Resolution No. 10; Assembly Bill No. 201.

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 and adults from the North Valley High School: Guadalupe Lopez, Janna Magana, Roy Foreman, Charles Retherford, Berea Robinson, Cameron Rogers, Troy Wise, Leanne White, Maria Diaz, Nancy Falcon, Yaneli Pintor, Johanna Richards, Madelanine Troeger, Dhalia Trujillo Silva, Tayzia Watson, Gretchen Baumann, Douglas Carrion, Daisy Castellon Morales, Jasmin Gonzalez, Raul Gutierrez-Trujillo, Myles Marantette, Frida Molina Rojas, Lilly Roth, Taylor Thomas, Monica Vega, Rebecca Wiltermood, Cassandran Aaronson, Lauren Acevedo, Rene Alfaro Hernandez, Kaylyn Dazel and teacher: Shawn Lear.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Eddie Escobedo Jr, Panfila "Maria" Escobedo, Jose Nicolas Escobedo and Hilda Escobedo.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Ray Tuntland.

On request of Senator Schneider, the privilege of the Floor of the Senate Chamber for this day was extended to Mary Bashelier, Tony Bashelier and Danielle Lauren Liebsack.

Senator Horsford moved that the Senate adjourn until Friday, May 20, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 1:44 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND THIRD DAY

CARSON CITY (Friday), May 20, 2011

Senate called to order at 11:09 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Christopher Amen.

Almighty and Eternal God and Father, though we have done nothing to earn Your mercy and favor, You give us many blessings and benefits, and provide for our needs on Earth. For salvation, grant that we receive Your gifts with thankful hearts and use the gifts You have provided us for those things that we truly need.

Grant us minds and hearts to recognize the distinction between needs and desires, that we may use Your gifts faithfully. We give You thanks for these blessings and the eternal blessings You provide through Jesus Christ, Your Son, our Lord, who lives and reigns with You and the Holy Spirit, one God, now and forever.

AMEN.

Pledge of Allegiance to the Flag.

Senator Wiener 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 Assembly Bill No. 382, 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 Assembly Bills Nos. 20, 77, 398, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bill No. 498; Assembly Bill No. 483, 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 Legislative Operations and Elections, to which were referred Assembly Bills Nos. 260, 566; Assembly Joint Resolution No. 5 of the 75th Session, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

DAVID R. PARKS, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Halseth moved that Assembly Bill No. 282 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 19, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 258, 358, 521.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 12.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 258.

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

Motion carried.

Assembly Bill No. 358.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 521.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 19.

Bill read second time and ordered to third reading.

Assembly Bill No. 138.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 620.

"SUMMARY—Revises provisions governing pupils. (BDR 34-113)"

"AN ACT relating to education; authorizing the Department of Education to work in consultation with the Nevada System of Higher Education to establish a plan to ensure that high school pupils are adequately prepared for postsecondary education and success in the workplace; revising certain requirements for the reports of accountability information prepared by the State Board of Education and the boards of trustees of school districts; revising provisions governing the academic plans for ninth grade pupils; authorizing school districts to adopt a policy for pupils to report unlawful activities; repealing certain provisions relating to the exemption of certain children from compulsory school attendance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes the Department of Education to work in consultation with the Nevada System of Higher Education to establish clearly

defined goals and benchmarks for pupils enrolled in public high schools to ensure that those pupils are adequately prepared for the educational requirements of postsecondary education and for success in the workplace.

Sections 2 , 2.5 and 4 of this bill revise the requirements for the reports of accountability information prepared by the State Board of Education and the board of trustees of each school district to include **: (1)** certain information relating to adult diplomas **[.] ; and (2) reports on incidents resulting in suspension or expulsion for bullying, cyber-bullying, harassment and intimidation.**

Section 5 of this bill revises the provisions governing the policy for the 4-year academic plan for ninth grade pupils to provide that the policy may ensure that each ninth grade pupil and his or her parent or legal guardian are provided, to the extent practicable, with information concerning certain courses and programs available to the pupil, as well as the requirements for graduation, for admission to the Nevada System of Higher Education and for receipt of a Governor Guinn Millennium Scholarship.

Section 8 of this bill authorizes the board of trustees of each school district to adopt a policy that allows a pupil enrolled in a public school within a school district to report, anonymously if the pupil chooses, any unlawful activities that are being conducted on school property, at an activity sponsored by the public school or on a school bus, commonly referred to as a "secret witness program."

~~**Section 13** of this bill repeals certain provisions relating to the exemption of children from compulsory school attendance.~~

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

Section 1. Chapter 385 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department may work in consultation with the Nevada System of Higher Education to establish a plan which sets forth clearly defined goals and benchmarks for pupils enrolled in the public high schools to ensure that those pupils are adequately prepared for the educational requirements of postsecondary education and for success in the workplace, including, without limitation, methods to ensure that the high school standards, graduation requirements and assessments are aligned with college and workforce readiness expectations.

2. If such a plan is established, the Superintendent of Public Instruction shall:

(a) On or before February 1 of each odd-numbered year, submit a report on the progress of the plan to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature; and

(b) On or before February 1 of each even-numbered year, submit a report on the progress of the plan to the Legislative Committee on Education.

Sec. 2. 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 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 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 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 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 adult diploma.***

(3) An adjusted diploma.

~~[(3)]~~ ***(4)*** 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 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. 2.5. **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. (Deleted by amendment.)

Sec. 4. 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 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 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 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 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 adult diploma***.

(3) An adjusted diploma.

~~[(3)]~~ ***(4)*** A certificate of attendance.

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

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

(x) The amount and sources of money received for the training and professional development of teachers and other educational personnel for

each school in the district and for the district as a whole, including, without limitation, each charter school in the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ee) ***The number of 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. 5. NRS 388.205 is hereby amended to read as follows:

388.205 1. The board of trustees of each school district shall adopt a policy for each public school in the school district in which ninth grade

pupils are enrolled to develop a 4-year academic plan for each of those pupils. The academic plan must set forth the specific educational goals that the pupil intends to achieve before graduation from high school. The plan may include, without limitation, the designation of a career pathway and enrollment in dual credit courses, career and technical education courses, advanced placement courses and honors courses.

2. ***The policy may ensure that each pupil enrolled in ninth grade and the pupil's parent or legal guardian are provided with, to the extent practicable, the following information:***

(a) The advanced placement courses, honors courses, international baccalaureate courses, dual credit courses, career and technical education courses, including, without limitation, career and technical skills-building programs, and any other educational programs, pathways or courses available to the pupil which will assist the pupil in the advancement of his or her education;

(b) The courses of study which the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the high school proficiency examination and pass that examination;

(c) The requirements for graduation from high school with a diploma and the types of diplomas available;

(d) The requirements for admission to the Nevada System of Higher Education and the eligibility requirements for a Governor Guinn Millennium Scholarship; and

(e) The charter schools within the school district.

3. The policy ***required by subsection 1*** must require each pupil enrolled in ninth grade and the pupil's parent or legal guardian to:

(a) ~~[Work in]~~ ***Be notified of opportunities to work in*** consultation with a school counselor to develop ***and review*** an academic plan for the pupil;

(b) Sign the academic plan; and

(c) Review the academic plan at least once each school year in consultation with a school counselor and revise the plan if necessary.

~~[3.]~~ ***4.*** If a pupil enrolls in a high school after ninth grade, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

~~[4.]~~ ***5.*** An academic plan for a pupil must be used as a guide for the pupil and the parent or legal guardian of the pupil to plan, monitor and manage the pupil's educational and occupational development and make determinations of the appropriate courses of study for the pupil. If a pupil does not satisfy all the goals set forth in the academic plan, the pupil is eligible to graduate and receive a high school diploma if the pupil otherwise satisfies the requirements for a diploma.

Sec. 6. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 8 of this act.

Sec. 7. (Deleted by amendment.)

Sec. 8. ***1. The board of trustees of each school district may adopt a policy that allows a pupil enrolled in a public school within the school district to report, anonymously if the pupil chooses, any unlawful activity which is being conducted on school property, at an activity sponsored by a public school or on a school bus. The policy may include, without limitation:***

(a) The types of unlawful activities which a pupil may report; and

(b) The manner in which a pupil may report the unlawful activities.

2. The board of trustees of a school district may work in consultation with a local law enforcement agency or other governmental entity, corporation, business, organization or other entity to assist the board of trustees in the implementation of a policy adopted pursuant to subsection 1.

3. If the board of trustees of a school district adopts a policy pursuant to subsection 1, each public school within the school district shall post prominently in various locations at the school the policy adopted pursuant to subsection 1, which must clearly denote the phone number and any other methods by which a report may be made. If a public school maintains an Internet website for the school, the policy must also be posted on the school's website.

4. If the board of trustees of a school district adopts a policy pursuant to subsection 1, the board of trustees shall post the policy on the Internet website maintained by the school district.

Sec. 9. NRS 392.019 is hereby amended to read as follows:

392.019 1. Except as otherwise provided in this subsection, if a child is exempt from compulsory attendance pursuant to NRS 392.070 ~~[, 392.100]~~ or 392.110, and the child is employed to work in the entertainment industry pursuant to a written contract for a period of more than 91 school days, or its equivalent if the child resides in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, including, without limitation, employment with a motion picture company or employment with a production company hired by a casino or resort hotel, the entity that employs the child shall, upon the request of the parent or legal guardian of the child, pay the costs for the child to receive at least 3 hours of tutoring per day for at least 5 days per week. In lieu of tutoring, the parent or legal guardian of such a child may agree with the entity that employs the child that the entity will pay the costs for the child to receive other educational or instructional services which are equivalent to tutoring. The provisions of this subsection apply during the period of a child's employment with an entity, regardless of whether the child has obtained the appropriate exemption from compulsory attendance at the time his or her contract with the entity is under negotiation.

2. If such a child is exempt from compulsory attendance pursuant to NRS ~~[392.100 or]~~ 392.110, the tutoring or other educational or instructional services received by the child pursuant to subsection 1 must be approved by the board of trustees of the school district in which the child resides.

Sec. 9.5. NRS 392.110 is hereby amended to read as follows:

392.110 1. Any child between the ages of ~~[14]~~ ***15*** and 18 years who has completed the work of the first eight grades may be excused from full-time school attendance and may be permitted to enter proper employment or apprenticeship, by the written authority of the board of trustees excusing the child from such attendance. The board's written authority must state the reason or reasons for such excuse.

2. In all such cases, no employer or other person shall employ or contract for the services or time of such child until the child presents a written permit therefor from the attendance officer or board of trustees. The permit must be kept on file by the employer and, upon the termination of employment, must be returned by the employer to the board of trustees or other authority issuing it.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. NRS 392.090 and 392.100 are hereby repealed.

Sec. 14. 1. This act becomes effective on July 1, 2011.

2. Section 1 of this act expires by limitation on June 30, 2014.

TEXT OF REPEALED SECTIONS

392.090 Juvenile court may permit child who has completed eighth grade to leave school. After review of the case, the juvenile court may issue a permit authorizing any child who has completed the eighth grade to leave school.

392.100 Attendance excused if child 14 years of age or older must support himself or herself or child's parent. Attendance required by the provisions of NRS 392.040 shall be excused when satisfactory written evidence is presented to the board of trustees of the school district in which the child resides that the child, 14 years of age or over, must work for his or her own or his or her parent's support.

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. 620 requires that public schools, school districts, and the State Board of Education include bullying incidents resulting in disciplinary action in their accountability reports.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 227.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 624.

"SUMMARY—Requires boards of trustees of school districts to grant the use of certain athletic fields to certain nonprofit organizations. (BDR 34-36)"

"AN ACT relating to school property; requiring boards of trustees of school districts**, under certain circumstances,** to grant the use of certain athletic fields to nonprofit organizations which serve adults and children with disabilities or which provide programs for youth sports; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of trustees of a school district is authorized to grant the use of school buildings and grounds to the general public for certain purposes. (NRS 393.071-393.0719)

Section 1 of this bill requires the board of trustees of a school district **,** ~~[to,]~~ upon request by a nonprofit organization and subject to availability **,** ~~[,]~~ **and other conditions, to** grant the use of any athletic field that does not contain lights at an elementary, middle or junior high school within the school district if the nonprofit organization: (1) serves adults and children with disabilities; or (2) provides programs for youth sports. The provisions of **section 1** do not apply if a school district has entered into an agreement with a local government to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports.

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

Section 1. Chapter 393 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsections 3 and 4 and subject to the limitations, requirements and restrictions set forth in this section and in NRS 393.071 to 393.0719, inclusive, the board of trustees of a school district shall, upon request, grant the use of any athletic field at each elementary, middle or junior high school within the school district to a nonprofit organization which serves adults and children with disabilities or which provides programs for youth sports, including, without limitation, baseball, football, soccer or softball. The organization may use the field at any time that:

(a) Is not during regular school hours; ~~*[and]*~~

(b) Use of the field is not required for school-related activities ~~*[.]*~~ ***; and***

(c) The field is not in the process of undergoing maintenance or renovation.

2. If a nonprofit organization which serves adults and children with disabilities or which provides programs for youth sports is granted use of an athletic field pursuant to subsection 1, the nonprofit organization shall comply with any insurance coverage and indemnification provisions required by the board of trustees of the school district.

3. If the board of trustees of a school district has entered into an agreement with one or more local governments to provide the use of the athletic fields or playgrounds of the school district to a community organization which provides programs for youth sports, the board of trustees is not required to comply with the provisions of subsection 1.

4. The provisions of this section do not apply to an athletic field that contains lights.

Sec. 2. NRS 393.071 is hereby amended to read as follows:

393.071 ~~[~~The~~]~~ ***Except as otherwise provided in section 1 of this act, the*** board of trustees of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational or educational meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, subject to the limitations, requirements and restrictions set forth in NRS 393.071 to 393.0719, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 3. 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. 624 exempts from the provisions of the bill school athletic fields that are undergoing maintenance or renovation.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 248.

Bill read second time and ordered to third reading.

Assembly Bill No. 455.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 622.

"SUMMARY—Revises provisions governing ~~[athletics in public schools.]~~ **the participation by pupils and youths in certain sports activities.** (BDR 34-1137)"

"AN ACT relating to ~~[education;]~~ **public safety;** requiring the Nevada Interscholastic Activities Association and the board of trustees of each school district to adopt policies concerning the prevention and treatment of injuries to the head sustained by pupils while participating in sports and other athletic activities and events; **requiring certain organizations for youth sports in this State to adopt a similar policy;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the county school districts to form a nonprofit association to be known as the Nevada Interscholastic Activities Association for the purposes of controlling, supervising and regulating all interscholastic

athletic events and other interscholastic events in the public schools. (NRS 386.420-386.470) **Section 1** of this bill requires the Association to adopt a policy concerning the prevention and treatment of injuries to the head which may occur during a pupil's participation in interscholastic activities and events, including, without limitation, concussion of the brain. The policy must require that a pupil who sustains or is suspected of sustaining an injury to the head while participating in such an activity or event: (1) be immediately removed from the activity or event; and (2) may not return to the activity or event unless the parent or legal guardian of the pupil provides a written statement from a provider of health care indicating that the pupil is medically cleared to participate and the date on which the pupil may return to the activity or event. A pupil who participates in interscholastic activities and events and his or her parent or legal guardian must sign a form acknowledging that they have received a copy of the policy and understand its terms and conditions before the pupil's participation in the activity or event and must sign the form on an annual basis thereafter. **Section 2** of this bill requires the board of trustees of each school district to adopt a similar policy for the participation of pupils in competitive sports within the school district which are not governed by the Association. **Section 2.2 of this bill requires each organization for youth sports that sanctions or sponsors competitive sports for youths in this State to adopt a similar policy for the participation of youths in those competitive sports sanctioned or sponsored by the organization.**

WHEREAS, A concussion is a brain injury that results from a bump, blow or jolt to the head or body which causes the brain to move rapidly in the skull and which disrupts normal brain function; and

WHEREAS, The Centers for Disease Control and Prevention of the United States Department of Health and Human Services estimates that as many as 3.8 million concussions occur each year in the United States which are related to participation in sports and other recreational activities; and

WHEREAS, Children who continue to participate in an athletic activity while suffering from a concussion or suffering from the symptoms of an injury to the head are at a greater risk for catastrophic injury to the brain or even death; and

WHEREAS, Ensuring that a child who sustains or is suspected of sustaining a concussion or other injury to the head receives the appropriate medical care before returning to an athletic activity will significantly reduce the child's risk of sustaining greater injury; now, therefore,

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

Section 1. Chapter 386 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Nevada Interscholastic Activities Association shall adopt a policy concerning the prevention and treatment of injuries to the head which may occur during a pupil's participation in interscholastic activities

and events, including, without limitation, a concussion of the brain. The policy must provide information concerning the nature and risk of injuries to the head which may occur during ~~[the]~~ a pupil's participation in interscholastic activities and events, including, without limitation, the risks associated with continuing to participate in the activity or event after sustaining such an injury.

2. The policy adopted pursuant to subsection 1 must require that if a pupil sustains or is suspected of sustaining an injury to the head while participating in an interscholastic activity or event, the pupil:

(a) Must be immediately removed from the activity or event; and

(b) May return to the activity or event if the parent or legal guardian of the pupil provides a signed statement of a provider of health care indicating that the pupil is medically cleared for participation in the activity or event and the date on which the pupil may return to the activity or event.

3. Before a pupil participates in an interscholastic activity or event, and on an annual basis thereafter, the pupil and his or her parent or legal guardian:

(a) Must be provided with a copy of the policy adopted pursuant to subsection 1; and

(b) Must sign a statement on a form prescribed by the Nevada Interscholastic Activities Association acknowledging that the pupil and his or her parent or guardian have read and understand the terms and conditions of the policy.

4. As used in this section, "provider of health care" means a physician licensed under chapter 630 or 633 of NRS, a physical therapist licensed under chapter 640 of NRS or an athletic trainer licensed under chapter 640B of NRS.

Sec. 2. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. For those competitive sports not governed by the Nevada Interscholastic Activities Association pursuant to NRS 386.420 to 386.470, inclusive, and section 1 of this act, the board of trustees of each school district shall adopt a policy concerning the prevention and treatment of injuries to the head which may occur during a pupil's participation in competitive sports within the school district, including, without limitation, a concussion of the brain. To the extent practicable, the policy must be consistent with the policy adopted by the Nevada Interscholastic Activities Association pursuant to section 1 of this act. The policy must provide information concerning the nature and risk of injuries to the head which may occur during a pupil's participation in competitive sports, including, without limitation, the risks associated with continuing to participate in competitive sports after sustaining such an injury.

2. The policy adopted pursuant to subsection 1 must require that if a pupil sustains or is suspected of sustaining an injury to the head while participating in competitive sports, the pupil:

(a) Must be immediately removed from the competitive sport; and

(b) May return to the competitive ~~[sports]~~ sport if the parent or legal guardian of the pupil provides a signed statement of a provider of health care indicating that the pupil is medically cleared for participation in the competitive sport and the date on which the pupil may return to the competitive sport.

3. Before a pupil participates in competitive sports within a school district, and on an annual basis thereafter, the pupil and his or her parent or legal guardian:

(a) Must be provided with a copy of the policy adopted pursuant to subsection 1; and

(b) Must sign a statement on a form prescribed by the board of trustees acknowledging that the pupil and his or her parent or guardian have read and understand the terms and conditions of the policy.

4. As used in this section, "provider of health care" means a physician licensed under chapter 630 or 633 of NRS, a physical therapist licensed under chapter 640 of NRS or an athletic trainer licensed under chapter 640B of NRS.

Sec. 2.2. **Chapter 455A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Each organization for youth sports that sanctions or sponsors competitive sports for youths in this State shall adopt a policy concerning the prevention and treatment of injuries to the head which may occur during a youth's participation in those competitive sports, including, without limitation, a concussion of the brain. To the extent practicable, the policy must be consistent with the policy adopted by the Nevada Interscholastic Activities Association pursuant to section 1 of this act. The policy must provide information concerning the nature and risk of injuries to the head which may occur during a youth's participation in competitive sports, including, without limitation, the risks associated with continuing to participate in competitive sports after sustaining such an injury.

2. The policy adopted pursuant to subsection 1 must require that if a youth sustains or is suspected of sustaining an injury to the head while participating in competitive sports, the youth:

(a) Must be immediately removed from the competitive sport; and

(b) May return to the competitive sport if the parent or legal guardian of the youth provides a signed statement of a provider of health care indicating that the youth is medically cleared for participation in the competitive sport and the date on which the youth may return to the competitive sport.

3. Before a youth participates in competitive sports sanctioned or sponsored by an organization for youth sports in this State, the youth and his or her parent or legal guardian:

(a) Must be provided with a copy of the policy adopted pursuant to subsection 1; and

(b) Must sign a statement on a form prescribed by the organization for youth sports acknowledging that the youth and his or her parent or legal guardian have read and understand the terms and conditions of the policy.

4. As used in this section:

(a) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, a physical therapist licensed under chapter 640 of NRS or an athletic trainer licensed under chapter 640B of NRS.

(b) "Youth" means a person under the age of 18 years.

Sec. 2.4. **NRS 455A.010 is hereby amended to read as follows:**

455A.010 ~~[This chapter]~~ ***NRS 455A.010 to 455A.190, inclusive,*** may be cited as the Skier and Snowboarder Safety Act.

Sec. 2.6. **NRS 455A.020 is hereby amended to read as follows:**

455A.020 As used in ~~[this chapter,]~~ ***NRS 455A.010 to 455A.190, inclusive,*** unless the context otherwise requires, the words and terms defined in NRS 455A.023 to 455A.090, inclusive, have the meanings ascribed to them in those sections.

Sec. 2.8. **NRS 455A.190 is hereby amended to read as follows:**

455A.190 ~~[This chapter does]~~ ***The provisions of NRS 455A.010 to 455A.190, inclusive, do*** not prohibit a county, city or unincorporated town from enacting an ordinance, not in conflict with the provisions of ~~[this chapter,]~~ ***NRS 455A.010 to 455A.190, inclusive,*** regulating skiers, snowboarders or operators.

Sec. 3. 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. 622 requires that the policies specified in the bill concerning the prevention and treatment of injuries to the head sustained by pupils in public school athletic activities, also will apply to youth sports organizations that sanction or sponsor competitive sports for the participating youths.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 456.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 623.

"SUMMARY—Revises provisions governing the attendance of pupils and graduation from high school. (BDR 34-1140)"

"AN ACT relating to education; authorizing certain pupils to receive a standard high school diploma without passing all subject areas of the high school proficiency examination under certain circumstances; authorizing the board of trustees of a school district to adopt a policy that allows certain pupils enrolled in high school the opportunity to make up credit; authorizing a juvenile court to impose certain orders against the parent or legal guardian

of a child who is adjudicated in need of supervision because the child is a habitual truant; revising provisions governing employment of minors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes a standard high school diploma and an adjusted diploma and requires that to receive a standard high school diploma, a pupil must satisfy the requirements for graduation from high school and either pass the high school proficiency examination in its entirety or fail to pass certain subject areas on the examination and satisfy certain alternative criteria prescribed by the State Board of Education. (NRS 389.805) **Section 5** of this bill provides that a pupil who has failed to pass the same subject area of the high school proficiency examination ~~[not less than six times]~~ **each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate,** may receive a standard high school diploma if the pupil obtained a cumulative score that meets the required cumulative score prescribed by the State Board and also satisfies certain additional conditions. **Section 5 also removes the satisfaction of the existing alternative criteria as a means by which a pupil may receive a standard high school diploma. Section 9.5 of this bill requires the board of trustees of each school district, on or before December 31, 2012, to submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report on the number of pupils who were awarded a standard high school diploma pursuant to the criteria prescribed by section 5.**

Section 6 of this bill authorizes school districts to adopt a policy that allows a high school pupil who has failed to comply with minimum attendance requirements the opportunity to make up the credits which the pupil missed during his or her absence.

Existing law prescribes the actions which must be taken by a juvenile court against a child who has been adjudicated in need of supervision because the child is a habitual truant. (NRS 62E.430) **Section 7** of this bill authorizes a juvenile court to order the parent or legal guardian of such a child to attend conferences with the child's teacher and appropriate school administrators to address the status of the child as a habitual truant and to develop a plan to ensure that the child attends school.

Section 8 of this bill authorizes the parent or legal guardian of a child between the ages of 16 and 18 years to indicate on a work permit that is issued to the child by the county, if any, the maximum number of hours that his or her child may work and the particular hours in which that work may occur during the week or on the weekend.

Existing law provides that a child under the age of 16 years may be employed in certain occupations for not more than 48 hours in any 1 week and 8 hours in any 1 day. (NRS 609.240) **Section 9** of this bill revises the

hours that a child may be employed to 20 hours in any 1 week when school is in session and 48 hours in any 1 week when school is not in session.

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 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 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 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 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]~~ ***Subsection*** 1 of NRS 389.805; and

(II) ~~[Paragraph (b) of subsection 1 of NRS 389.805]~~ ~~[.]~~ ~~*[; and (III)]*~~ ***Subsection 4 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 ~~.~~ ***or otherwise failed to satisfy the requirements of NRS 389.805.***

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

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the

educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

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

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

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

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

(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 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 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 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 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]~~ ***Subsection*** 1 of NRS 389.805; and

(II) ~~[Paragraph (b) of subsection 1 of NRS 389.805]~~ ~~[.]~~ ~~*[; and*~~

~~*(III)]*~~ ***Subsection 4 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 ~~[.]~~ ***or otherwise failed to satisfy the requirements of NRS 389.805.***

(ee) 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) "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 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

(a) Reading;

(b) Mathematics; and

(c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11.

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in

which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➥ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, the pupil may be promoted to the next higher grade, but the results of the pupil's examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, the pupil must not be graduated unless he or she:

(a) Is able, through remedial study, to pass the proficiency examination; or

(b) ***Failed to pass the same subject area of the proficiency examination*** ~~*[not less than six times]*~~ ***each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate, and satisfies the requirements of subsection 4 of NRS 389.805*** , ~~*[, or*~~

~~*(c)* Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,]~~

➥ but the pupil may be given a certificate of attendance, in place of a diploma, if the pupil has reached the age of 18 years.

6. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 5 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 4. NRS 389.0173 is hereby amended to read as follows:

389.0173 1. The Department shall develop an informational pamphlet concerning the high school proficiency examination for pupils who are enrolled in junior high, middle school and high school, and their parents and legal guardians. The pamphlet must include a written explanation of the:

(a) Importance of passing the examination, including, without limitation, an explanation that if the pupil fails the examination, or does not satisfy the requirements of ~~[paragraph (b) of]~~ subsection ~~[1 *or subsection]*~~ ***4*** of NRS 389.805, the pupil is not eligible to receive a standard high school diploma;

(b) Subject areas tested on the examination;

(c) Format for the examination, including, without limitation, the range of items that are contained on the examination;

(d) Manner by which the scaled score, as reported to pupils and their parents or legal guardians, is derived from the raw score;

(e) Timeline by which the results of the examination must be reported to pupils and their parents or legal guardians;

(f) Maximum number of times that a pupil is allowed to take the examination if the pupil fails to pass the examination after the first administration;

(g) Courses of study that the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the examination and pass the examination; and

(h) Courses of study which the Department recommends that pupils take in high school to successfully prepare for the college entrance examinations.

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the examination.

3. On or before September 1, the Department shall provide a copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before January 15, the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in a junior high, middle school or high school of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled in the charter school at a junior high, middle school or high school grade level and to the parents or legal guardians of such a pupil.

Sec. 5. NRS 389.805 is hereby amended to read as follows:

389.805 1. Except as otherwise provided in ~~[~~subsection 3,~~]~~ ***subsections 3 and 4,*** a pupil must receive a standard high school diploma if the pupil ~~[~~:

~~(a) Passes]~~ ***passes*** all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school ~~[~~**.** ~~; or~~

~~(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than two times before beginning grade 12 and the pupil:~~

~~(1) Passes the subject areas of mathematics and reading on the proficiency examination;~~

~~(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;~~

~~(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection]~~ ~~[~~4;~~]~~ ~~*[5;* and~~

~~(4) Otherwise satisfies the requirements for graduation from high school.]~~

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if the pupil satisfies the requirements set forth in his or her individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of ~~[~~paragraphs (a) and (b) of subsection~~]~~ ***subsections*** 1 ***and 4*** if, in accordance

with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

4. ***A pupil must receive a standard high school diploma if the pupil has failed to pass ~~[one]~~ the same subject area of the high school proficiency examination administered pursuant to NRS 389.015 ~~[not less than six times]~~ each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate and the pupil:***

(a) Has earned sufficient credits to receive a standard high school diploma;

(b) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(c) Satisfies the minimum attendance requirements established by the board of trustees of the school district pursuant to NRS 392.122;

(d) Does not have any disciplinary action pending against him or her; and

(e) Has obtained a cumulative score on the high school proficiency examinations that meets the required cumulative score prescribed by the State Board, which must be calculated using the highest scores received over all instances in which the examination was taken.

~~*[5. The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:*~~

~~(a) An essay;~~

~~(b) A senior project; or~~

~~(c) A portfolio of work,~~

~~or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.]~~

Sec. 6. NRS 392.122 is hereby amended to read as follows:

392.122 1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or

first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.

2. For the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. The teacher or principal of the school may approve the absence of a pupil for deployment activities of the parent or legal guardian of the pupil, as defined in NRS 392C.010. If the board of trustees of a school district has adopted a policy pursuant to subsection 5, the 10-day limitation on absences does not apply to absences that are excused pursuant to that policy.

3. Except as otherwise provided in ~~[subsection 5,]~~ ***subsections 5 and 6,*** before a pupil is denied credit or promotion to the next higher grade for failure to comply with the attendance requirements prescribed pursuant to subsection 1, the principal of the school in which the pupil is enrolled or the principal's designee shall provide written notice of the intended denial to the parent or legal guardian of the pupil. The notice must include a statement indicating that the pupil and the pupil's parent or legal guardian may request a review of the absences of the pupil and a statement of the procedure for requesting such a review. Upon the request for a review by the pupil and the pupil's parent or legal guardian, the principal or the principal's designee shall review the reason for each absence of the pupil upon which the intended denial of credit or promotion is based. After the review, the principal or the principal's designee shall credit towards the required days of attendance each day of absence for which:

(a) There is evidence or a written affirmation by the parent or legal guardian of the pupil that the pupil was physically or mentally unable to attend school on the day of the absence; and

(b) The pupil has completed course-work requirements.

4. A pupil and the pupil's parent or legal guardian may appeal a decision of a principal or the principal's designee pursuant to subsection 3 to the board of trustees of the school district in which the pupil is enrolled.

5. The board of trustees of a school district may adopt a policy to exempt pupils who are physically or mentally unable to attend school from the limitations on absences set forth in subsection 1. If a board of trustees adopts a policy pursuant to this subsection:

(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.

(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course-work requirements.

(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.

6. ***The board of trustees of a school district may adopt a policy that allows a pupil enrolled in high school who has failed to comply with the minimum attendance requirements pursuant to subsection 1 for which he or she will be denied credit the opportunity to make up those credits. The policy must provide that such a pupil may obtain credit if the pupil is not absent from school for any additional days during the current grading period for which credit may be earned and the pupil:***

(a) Enrolls in a program in addition to the regular high school program that provides additional time and instruction for the pupil to make up the material missed due to the pupil's absences; or

(b) Passes a comprehensive examination demonstrating competence in the subject area for which the pupil would otherwise be denied credit.

➥ A pupil who does not satisfy the requirements of paragraph (a) or (b) will be denied credit, and the principal of the school shall provide notice of the intended denial pursuant to subsection 3.

7. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 7. NRS 62E.430 is hereby amended to read as follows:

62E.430 1. If a child is adjudicated to be in need of supervision because the child is a habitual truant, the juvenile court shall:

(a) The first time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than $100 and the administrative assessment required by NRS 62E.270 or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment; or

(II) The child to perform not less than 8 hours but not more than 16 hours of community service; and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 30 days but not more than 6 months. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 30 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

(b) The second or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than $200 and the administrative assessment required by NRS 62E.270 or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment;

(II) The child to perform not more than 10 hours of community service; or

(III) Compliance with the requirements set forth in both sub-subparagraphs (I) and (II); and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 60 days but not more than 1 year. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 60 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

2. The juvenile court may suspend the payment of a fine ordered pursuant to paragraph (a) of subsection 1 if the child attends school for 60 consecutive school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the imposition of the fine, or has a valid excuse acceptable to the child's teacher or the principal for any absence from school within that period.

3. The juvenile court may suspend the payment of a fine ordered pursuant to this section if the parent or guardian of a child is ordered to pay a fine by another court of competent jurisdiction in a case relating to or arising out of the same circumstances that caused the juvenile court to adjudicate the child in need of supervision.

4. The community service ordered pursuant to this section must be performed at the child's school of attendance, if practicable.

5. If a child is adjudicated in need of supervision because the child is a habitual truant, the juvenile court may, the first time, the second time or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant, order the parent or legal guardian of the child to attend conferences with the child's teacher and appropriate school administrators to address the status of the child as a habitual truant and to develop a plan to ensure that the child attends school.

Sec. 8. Chapter 609 of NRS is hereby amended by adding thereto a new section to read as follows:

If a county requires the issuance of work permits and a work permit is issued to a child between the ages of 16 and 18 years, the parent or legal guardian of the child may indicate on the work permit the maximum

number of hours that his or her child may work and specify the time periods in which that work may occur during the week and on the weekend.

Sec. 9. NRS 609.240 is hereby amended to read as follows:

609.240 1. No child under the age of 16 years may be employed, permitted or suffered to work at any gainful occupation, other than domestic service, employment as a performer in the production of a motion picture or work on a farm, more than ~~[~~48~~]~~ ***:***

(a) Twenty hours in any 1 week ~~[,]~~ ***when school is in session;***

(b) Forty-eight hours in any 1 week when school is not in session; or ~~[~~more than 8~~]~~

(c) Eight hours in any 1 day.

2. The presence of a child in any establishment during working hours is prima facie evidence of employment of the child therein.

Sec. 9.5. **1. On or before December 31, 2012, the board of trustees of each school district shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report on the standard high school diplomas awarded to pupils pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act.**

2. The report submitted pursuant to subsection 1 must include:

(a) The number of pupils who were awarded a standard high school diploma pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act;

(b) An assessment of the effectiveness of the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act, with enabling pupils to receive a standard high school diploma who would not otherwise have been eligible for such a diploma; and

(c) A determination as to whether the awarding of a standard high school diploma pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act, should continue to be a means by which pupils may receive a standard high school diploma.

Sec. 10. 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. 623 deletes the requirement that the State Board of Education adopt alternative criteria for a pupil to receive a high school diploma which would include an essay, a senior project, or a portfolio of school work as a substitute for demonstrating proficiency using the high school proficiency exam. Instead, the State Board will develop regulations based upon the criteria established for a cumulative score based upon the highest scores received in all instances in which the exam was taken.

In addition, each school district must report to the next regular session the number of pupils awarded a high school diploma under the provisions of the act; the effectiveness of those criteria for obtaining a diploma; and a determination about whether the criteria should remain in statute.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 481.

Bill read second time and ordered to third reading.

Assembly Bill No. 498.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 621.

"SUMMARY— ~~[Eliminates]~~ **Suspends temporarily** the requirement for the administration of norm-referenced examinations in public schools. (BDR 34-1174)"

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

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district and the governing body of each charter school to administer norm-referenced examinations in grades 4, 7 and 10 which compare the results of pupils enrolled in those grades in public schools in this State to a national reference group of pupils. (NRS 389.015) Senate Bill No. 416 of the 2009 Legislative Session suspended temporarily the administration of the norm-referenced examinations for the 2009-2011 biennium. (Chapter 423, Statutes of Nevada 2009, p. 2340) This bill ~~[eliminates the statutory requirement for]~~ **again suspends temporarily** the administration of **the** norm-referenced examinations ~~[and revises existing law to delete references to the norm-referenced examinations.]~~ **for the 2011-2013 biennium.**

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. 7.5. **Notwithstanding the provisions of NRS 389.015 to the contrary, the norm-referenced examinations required to be administered to pupils enrolled in grades 4, 7 and 10 pursuant to that section must not be administered in the public schools of this State during the 2011-2012 school year and the 2012-2013 school year. Any requirements relating to the reporting of test scores of pupils on those examinations that would otherwise be administered during those school years are also suspended.**

Sec. 8. This act becomes effective upon passage and approval.

~~]~~

~~TEXT OF REPEALED SECTION~~

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

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

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

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

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

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

Amendment No. 621 deletes the provisions of the bill that would have permanently repealed the statutory requirement that norm-referenced tests be administered to students in grades 4, 7, and 10 in each of Nevada's public schools. Instead, the amendment extends for an additional two years the suspension of these tests that was put into place by the 2009 75th Legislature.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 271, 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 Government Affairs.

STEVEN A. HORSFORD, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

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

Senate in recess at 11:33 a.m.

SENATE IN SESSION

At 12:59 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senate Concurrent Resolution No. 2.

Resolution read.

Senator Manendo moved the adoption of the resolution.

Remarks by Senator Manendo.

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

Senate Concurrent Resolution No. 2 directs the Office of the Attorney General, the Agency for Nuclear Projects and the State Department of Conservation and Natural Resources, to the extent that conducting such an investigation will not cost the agencies any additional money or resources, to jointly conduct an investigation into whether Nevada could potentially receive monetary compensation from the federal government for certain contaminations of the environment in Nevada. The specific environmental contaminations referenced are radioactive and other hazardous contaminants as a result of military exercises, nuclear weapons testing, and other activities conducted by the federal government in Nevada.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Wiener moved that Senate Bill No. 206 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Horsford moved that Senate Bill No. 271 be re-referred to the Committee on Government Affairs.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 13.

Bill read third time.

Roll call on Assembly Bill No. 13:

YEAS—21.

NAYS—None.

Assembly Bill No. 13 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 17.

Bill read third time.

Roll call on Assembly Bill No. 17:

YEAS—20.

NAYS—None.

NOT VOTING—Denis.

Assembly Bill No. 17 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 23.

Bill read third time.

Roll call on Assembly Bill No. 23:

YEAS—21.

NAYS—None.

Assembly Bill No. 23 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 29.

Bill read third time.

Roll call on Assembly Bill No. 29:

YEAS—14.

NAYS—Cegavske, Gustavson, Halseth, Hardy, McGinness, Roberson, Settelmeyer—7.

Assembly Bill No. 29 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 39.

Bill read third time.

Roll call on Assembly Bill No. 39:

YEAS—21.

NAYS—None.

Assembly Bill No. 39 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 40.

Bill read third time.

Roll call on Assembly Bill No. 40:

YEAS—21.

NAYS—None.

Assembly Bill No. 40 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 56.

Bill read third time.

Roll call on Assembly Bill No. 56:

YEAS—21.

NAYS—None.

Assembly Bill No. 56 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 72.

Bill read third time.

Roll call on Assembly Bill No. 72:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 72 having failed to receive a two-thirds majority, Mr. President declared it lost.

Assembly Bill No. 76.

Bill read third time.

Roll call on Assembly Bill No. 76:

YEAS—21.

NAYS—None.

Assembly Bill No. 76 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 78.

Remarks by Senators Roberson and Copening.

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

SENATOR ROBERSON:

Assembly Bill No. 78 deals a crushing blow to Nevada's smallest, home-based businesses, and to our national image as a business-friendly state.

A small business that makes under $27,000 per year would pay $125 to file this year and will pay $325 if this bill passes. That is a 260 percent fee increase on our State's smallest businesses during one of the worst economies in history. How is this good policy?

The reason for the bill, according to the sponsor, is that some larger businesses who do not meet the criteria for the home-based business exemption are illegally claiming it.

Assembly Bill No. 78 does nothing to go after those businesses. Instead, it wipes out the exemption in its entirety, punishing only the smallest businesses that are following the law.

Just last month in the Las Vegas Review-Journal, the bill's sponsor boasted about a 2.4 percent increase in business corporation filings saying, and I quote, "These are entities that are likely to create jobs and be associated with jobs."

This bill will have a very negative effect on the very corporations and jobs being touted in this article. This bill tells entrepreneurs around the country with small, home-based businesses that have the potential to grow that Nevada does not want them. That means the companies who started tiny, like Apple, Dell, Whole Foods, Starbucks, and Nordstrom, will take their business elsewhere.

It is already three to four times as expensive to file as a corporation in Nevada than it is in competing states.

This bill also very clearly increases a fee, and the proponent touts the potential short-term revenue gain for the State, yet it did not have a hearing in Senate Finance or in Assembly Ways and Means.

I respect the bill's sponsor and this is not a partisan issue. It is a fairness for small business issue, and it is about protecting Nevada's reputation as a business-friendly state.

This measure had problems in the Assembly. The Floor vote was postponed for all of the reasons mentioned above. It passed with Democrat and Republican opposition.

I urge this body to reject this proposal to ensure the long-term economic vitality of our State.

Thank you.

SENATOR COPENING:

Assembly Bill No. 78 excludes from the definition of "business," for purposes related to a State business license, a natural person who operates a business from his or her personal residence and whose net earnings from that business do not exceed two-thirds of the average annual wage. The bill also excludes nonprofit organizations without shares of stock.

Assembly Bill No. 78 also requires foreign corporations and foreign limited-liability companies to file signed declarations stating their existence and that they are in good standing in the jurisdiction in which they were created.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 78 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 110.

Bill read third time.

Roll call on Assembly Bill No. 110:

YEAS—21.

NAYS—None.

Assembly Bill No. 110 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 113.

Bill read third time.

Roll call on Assembly Bill No. 113:

YEAS—21.

NAYS—None.

Assembly Bill No. 113 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 115.

Bill read third time.

Roll call on Assembly Bill No. 115:

YEAS—21.

NAYS—None.

Assembly Bill No. 115 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 130.
Bill read third time.
Roll call on Assembly Bill No. 130:
YEAS—21.
NAYS—None.

Assembly Bill No. 130 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 135.
Bill read third time.
Roll call on Assembly Bill No. 135:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 135 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 141.
Bill read third time.
Roll call on Assembly Bill No. 141:
YEAS—21.
NAYS—None.

Assembly Bill No. 141 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 143.
Bill read third time.
Roll call on Assembly Bill No. 143:
YEAS—21.
NAYS—None.

Assembly Bill No. 143 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 145.
Bill read third time.
Roll call on Assembly Bill No. 145:
YEAS—21.
NAYS—None.

Assembly Bill No. 145 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 146.
Bill read third time.
Roll call on Assembly Bill No. 146:
YEAS—21.
NAYS—None.

Assembly Bill No. 146 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 154.
Bill read third time.
Roll call on Assembly Bill No. 154:
YEAS—21.
NAYS—None.

Assembly Bill No. 154 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 170.
Bill read third time.
Roll call on Assembly Bill No. 170:
YEAS—14.
NAYS—Brower, Cegavske, Gustavson, Halseth, Rhoads, Roberson, Settelmeyer—7.

Assembly Bill No. 170 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 182.
Bill read third time.
Roll call on Assembly Bill No. 182:
YEAS—20.
NAYS—Halseth.

Assembly Bill No. 182 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 192.
Bill read third time.
Roll call on Assembly Bill No. 192:
YEAS—18.
NAYS—Cegavske, Gustavson, Halseth—3.

Assembly Bill No. 192 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 196.
Bill read third time.
Roll call on Assembly Bill No. 196:
YEAS—21.
NAYS—None.

Assembly Bill No. 196 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 200.
Bill read third time.
Roll call on Assembly Bill No. 200:
YEAS—21.
NAYS—None.

Assembly Bill No. 200 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 213.
Bill read third time.
Roll call on Assembly Bill No. 213:
YEAS—21.
NAYS—None.

Assembly Bill No. 213 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 233.
Bill read third time.
Roll call on Assembly Bill No. 233:
YEAS—21.
NAYS—None.

Assembly Bill No. 233 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 237, 246, 249, 253, 254, 276, 280, 290, 292, 306, 313, 317, 318, 362, 365, 368, 373, 395, 396, 410, 420, 422, 451, 454, 472, 477, 480, 533, 534, 535, 544, 551, 564; Assembly Joint Resolution No. 1, be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 7, 27, 44, 74, 81, 114, 131, 232, 280, 302, 318, 393, 396; Senate Concurrent Resolution No. 11.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Loren Brower, Gale Lana and Don Stenson.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Diana Jones, Gary Stewart and the following students and adults from the Lena Juniper Elementary School: Carlos Arredondo, Aria Burke, Abigail Campbell, Rigo Cardenas Ramos, Kaytlyn Carter, Alex Choate, Manny Guerrero, Stephanie Guerrero Chavez, Brook Gurnea, Elise Gustavson, Nathaniel Hernandez, Joanna Hernandez Gonzalez, Ranee Jackson, Emily Macaluso, Tyler Mahoney, Benito Martinez, Alex Mendoza, Dylan Neel, Sophia Paschall, Carson Silberschlag, Daniel Solsvig, Samantha Tanner, Caleb Tau-Tolliver, Ben Tobler, Chaperones: Fran Macaluso and Jorge Hernandez; and teacher: Lori Kahl.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Katie Bowen and Nanci Bowen.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Dionny Fonseca.

On request of Senator Manendo, the privilege of the Floor of the Senate Chamber for this day was extended to Kristene Fisher.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Senior Judge Fidel Salcedo, Esther Salcedo and National Federation of Republican Women: Lynne Hartung, Carol deGanahl, Paula Ferrell and Carol Klasen.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Joan Patrick.

Senator Horsford moved that the Senate adjourn until Monday, May 23, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 1:33 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND SIXTH DAY

CARSON CITY (Monday), May 23, 2011

Senate called to order at 10:12 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God and Father, thank You for the opportunity to serve the citizens of Nevada today as we meet in this Chamber to discuss and move the bills that have been presented to us. Guide and lead us that our decisions may be based not on our own needs or positions, but for the good of this great State.

Guide our discussions that we may be kind, gentle and forgiving to each other, especially to those who are not in agreement with our positions.

We also come to You today asking for Your help and assistance for the brave people of the Midwest in our country who are reeling after the tornados that buffeted that area yesterday. Give comfort to those who have experienced loss of family, friends and possessions. Keep in safety all those who are in the process of responding to this tragedy.

All these things we bring to You trusting in Your love, grace and mercy, in the Name of Your Son, Jesus Christ.

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 Assembly Bill No. 299, 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 was referred Assembly Bill No. 309, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was referred Assembly Bill No. 478, 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 Assembly Bills Nos. 59, 198, 304, 360, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 459, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

SECOND READING AND AMENDMENT

Senate Bill No. 498.

Bill read second time and ordered to third reading.

Assembly Bill No. 20.

Bill read second time.

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

Amendment No. 618.

"SUMMARY—Revises provisions governing the practice of optometry. (BDR 54-501)"

"AN ACT relating to optometry; requiring the Nevada State Board of Optometry to issue a license by endorsement to practice optometry in this State in certain circumstances; revising provisions governing the examination for licensure by the Board; revising provisions governing the discipline and unprofessional or unethical conduct of licensees; repealing provisions that require the Board to maintain a roster of licensees; repealing provisions that pertain to the scope of reexaminations for licensure; establishing fees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires each applicant for a license to practice optometry in this State to take and pass an examination prepared and administered by the Nevada State Board of Optometry or by a testing agency that has been designated by the Board. The examination must test the fitness of an applicant to practice optometry and include testing of the applicant's knowledge of statutes and regulations governing the practice of optometry. (NRS 636.150, 636.180, 636.185) Other states have enacted legislation creating exceptions from general licensure provisions which allow certain qualified persons who are licensed in another jurisdiction to receive a license to practice optometry without requiring the licensee to take an examination that is designed to evaluate competency to practice optometry. However, existing law in this State does not authorize such an exception.

Section 2 of this bill provides for the issuance of a license by endorsement to practice optometry and requires the Board to issue a license by endorsement to certain qualified applicants who are licensed to practice optometry in the District of Columbia or other states or territories and who have been continuously and actively engaged in the practice of optometry for the 5 years immediately preceding the date on which they apply to the Board for the issuance of a license by endorsement. **Section 7** of this bill requires an applicant for a license by endorsement to take and pass an examination, but **section 3** of this bill provides that the examination must test only the

applicant's knowledge of statutes and regulations governing the practice of optometry in this State. **Section 5** of this bill establishes the fees which must be paid by an applicant for the examination for a license by endorsement and for the issuance and renewal of a license by endorsement.

Section 10 of this bill revises provisions governing the score required to pass the examinations, and **sections 6, 8, 9, 11 and 12** of this bill make certain revisions to distinguish between the examination for and issuance of a license to practice optometry and a license by endorsement.

Existing law also defines the scope of the practice of optometry in this State and authorizes the Board to discipline licensees for certain acts or omissions and determine what acts constitute unethical or unprofessional conduct by licensees. (NRS 636.025, 636.130, 636.290-636.340) **Section 4.5 of this bill provides that a license to practice optometry does not authorize an optometrist to engage in acts or perform procedures which are not authorized by law. Section 13** of this bill authorizes the Board to discipline licensees for the commission of a felony ~~[,]~~ **or** for conduct that demonstrates incompetency in the practice of optometry**.** ~~[or for practicing or offering to practice optometry outside the scope of practice authorized by law.]~~ **Sections 14 and 15** of this bill revise provisions pertaining to unprofessional or unethical conduct relating to the use of prescription blanks and the sale, solicitation or advertisement of certain products and services.

Section 16 of this bill repeals provisions requiring the Board to maintain a roster of licensees and authorizing the Board to determine the scope of reexaminations for licensure.

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

Section 1. Chapter 636 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. The Board shall, except for good cause, issue a license by endorsement to practice optometry to an applicant who has been issued a license to practice optometry by the District of Columbia or any state or territory of the United States if:***

(a) At the time the applicant files an application with the Board, the license issued to the applicant by the District of Columbia or the other state or territory of the United States is in effect and unrestricted; and

(b) The applicant:

(1) Has obtained a passing score on an examination for licensure that is recognized by the Board as an appropriate examination to assess competency in the practice of optometry;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the 5 years immediately preceding the date of the application;

(3) Has been continuously and actively engaged in the practice of optometry for the 5 years immediately preceding the date of the application;

(4) Is not involved in and does not have pending any disciplinary action concerning a license to practice optometry in the District of Columbia or any state or territory of the United States;

(5) Provides information to the Board about any malpractice claim that has been brought against the applicant, regardless of when the claim was filed or how the claim was resolved;

(6) Obtains a passing score on the examination for licensure by endorsement administered by the Board pursuant to NRS 636.170; and

(7) Pays the fee required by NRS 636.143.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by the President and Executive Director. Such action shall be deemed to be an action of the Board.

Sec. 3. ***An examination for licensure by endorsement must:***

1. Test only the examinee's knowledge of statutes and regulations governing the practice of optometry in this State;

2. Be prepared and administered by the Board or a testing agency that has been designated by the Board to conduct its examinations; and

3. Be conducted in the English language.

Sec. 4. (Deleted by amendment.)

Sec. 4.5. **NRS 636.025 is hereby amended to read as follows:**

636.025 1. The acts set forth in this ~~[section,]~~ ***subsection,*** or any of them, whether done severally, collectively or in combination with other acts that are not set forth in this ~~[section]~~ ***subsection*** constitute practice in optometry within the purview of this chapter:

(a) Advertisement or representation as an optometrist.

(b) Adapting, or prescribing or dispensing, without prescription by a practitioner of optometry or medicine licensed in this State, any ophthalmic lens, frame or mounting, or any part thereof, for correction, relief or remedy of any abnormal condition or insufficiency of the eye or any appendage or visual process. The provisions of this paragraph do not prevent an optical mechanic from doing the mere mechanical work of replacement or duplication of the ophthalmic lens or prevent a licensed dispensing optician from engaging in the practice of ophthalmic dispensing.

(c) The examination of the human eye and its appendages, the measurement of the powers or range of human vision, the determination of the accommodative and refractive states of the eye or the scope of its function in general, or the diagnosis or determination of any visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies of the eye or its appendages or visual processes.

(d) Prescribing, directing the use of or using any optical device in connection with ocular exercises, orthoptics or visual training.

(e) The prescribing of contact lenses.

(f) The measurement, fitting or adaptation of contact lenses to the human eye except under the direction and supervision of a physician, surgeon or optometrist licensed in the State of Nevada.

(g) The topical use of diagnostic pharmaceutical agents to determine any visual, muscular, neurological, interpretative or anatomic anomalies or deficiencies of the eye or its appendages or visual processes.

(h) Prescribing, directing the use of or using a therapeutic pharmaceutical agent to treat an abnormality of the eye or its appendages.

(i) Removing a foreign object from the surface or epithelium of the eye.

(j) The ordering of laboratory tests to assist in the diagnosis of an abnormality of the eye or its appendages.

2. The provisions of ~~[this section]~~ ***subsection 1*** do not authorize an optometrist to engage in any practice which includes:

(a) The incision or suturing of the eye or its appendages; or

(b) The use of lasers for surgical purposes.

3. A license to practice optometry issued pursuant to this chapter does not authorize an optometrist to engage in any act or perform any procedure which is not authorized by this chapter or the regulations adopted pursuant thereto.

Sec. 5. NRS 636.143 is hereby amended to read as follows:

636.143 The Board shall establish within the limits prescribed a schedule of fees for the following purposes:

	Not less than	Not more than
Examination ***, including examination for license by endorsement***	$100	$500
Reexamination ***, including reexamination for license by endorsement***	100	500
Issuance of each license or duplicate license ***, including a license by endorsement***	35	75
Renewal of each license or duplicate license ***, including a license by endorsement***	100	500
Issuance of a license for an extended clinical facility	100	500
Issuance of a replacement renewal card for a license	10	50

Sec. 6. NRS 636.150 is hereby amended to read as follows:

636.150 ~~[Any]~~ ***Except as otherwise provided in section 2 of this act, any*** person applying for a license to practice optometry in this State must:

1. File proof of his or her qualifications;
2. Make application for an examination;
3. Take and pass the examination;
4. Pay the prescribed fees; and

5. Verify that all the information he or she has provided to the Board or to any other entity pursuant to the provisions of this chapter is true and correct.

Sec. 7. NRS 636.170 is hereby amended to read as follows:

636.170 The Board shall ~~[~~:

~~1. Conduct a regular annual examination, and may conduct a special examination when it deems that circumstances warrant such examination.~~

~~2. Fix and announce the time and place of any examination at least 30 days prior to the day when it is to be commenced.~~] ***conduct an examination of each applicant for licensure and each applicant for licensure by endorsement by the Board. The examination must be administered at a time and place designated by the Board.***

Sec. 8. NRS 636.180 is hereby amended to read as follows:

636.180 An examination ***other than an examination for licensure by endorsement*** must:

1. Be practical in character and design as determined by the Board;
2. Test the fitness of the examinee to practice optometry;
3. Be prepared and administered by the Board or a testing agency that has been designated by the Board to conduct its examinations; and
4. Be conducted in the English language.

Sec. 9. NRS 636.185 is hereby amended to read as follows:

636.185 1. An examination, other than ~~[one]~~ ***an examination*** conducted solely for reexamination of an examinee who has failed in a previous examination ~~[.]~~ ***or an examination for licensure by endorsement,*** must include testing in the following areas:

(a) General anatomy.
(b) General physiology.
(c) Ocular anatomy.
(d) Ocular physiology.
(e) Ocular pathology.
(f) Geometric optics.
(g) Physiological optics.
(h) Theoretical optometry.
(i) Practical optometry.
(j) Retinoscopy and ophthalmic instruments.
(k) Ophthalmoscopy and biomicroscopy.
(l) Neurology, visual fields and perimetry.
(m) Vision therapy.
(n) Clinical optometry.
(o) Contact lenses.
(p) Pharmacology.
(q) Statutes and regulations governing the practice of optometry.
(r) Such other areas as the Board may prescribe.

2. An examination ***, other than an examination conducted solely for reexamination of an examinee who has failed in a previous examination or***

an examination for licensure by endorsement, must also provide for an evaluation of the examinee's knowledge of the following areas:

(a) Basic science.

(b) Clinical science.

(c) Care and management of patients.

Sec. 10. NRS 636.190 is hereby amended to read as follows:

636.190 Except as otherwise provided in NRS 622.090, a grade of 75 or higher ~~[for each area tested on the examination]~~ is required to pass an examination.

Sec. 11. NRS 636.215 is hereby amended to read as follows:

636.215 The Board shall execute a license ***other than a license by endorsement*** for each person who has satisfied the requirements of NRS 636.150 and submitted all information required to complete an application for a license. A license must:

1. Certify that the licensee has been examined and found qualified to practice optometry in this State; and

2. Be signed by each member of the Board.

Sec. 12. NRS 636.220 is hereby amended to read as follows:

636.220 ~~[The]~~ ***A*** license ***executed pursuant to NRS 636.215*** must be issued and delivered by the Executive Director to the licensee upon payment to the Executive Director of the prescribed fee.

Sec. 13. NRS 636.295 is hereby amended to read as follows:

636.295 The following acts, conduct, omissions, or mental or physical conditions, or any of them, committed, engaged in, omitted, or being suffered by a licensee, constitute sufficient cause for disciplinary action:

1. Affliction of the licensee with any communicable disease ~~[likely to]~~ ***which may*** be communicated to other persons.

2. Commission by the licensee of a felony ~~[relating to the practice of optometry]~~ or ***of*** a gross misdemeanor involving moral turpitude of which the licensee has been convicted and from which he or she has been sentenced by a final judgment of a federal or state court in this or any other state, the judgment not having been reversed or vacated by a competent appellate court and the offense not having been pardoned by executive authority.

3. Conviction of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Commission of fraud by or on behalf of the licensee in obtaining a license or a renewal thereof, or in practicing optometry thereunder.

5. Habitual drunkenness or addiction to any controlled substance.

6. ~~[Gross incompetency.]~~ ***Incompetency in the practice of optometry or conduct which demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation in the practice of optometry.***

7. Affliction with any mental or physical disorder or disturbance ~~[seriously impairing]~~ ***which impairs*** his or her competency as an optometrist.

8. Making false or misleading representations, by or on behalf of the licensee, with respect to optometric materials or services.

9. Practice by the licensee, or attempting or offering so to do, while in an intoxicated condition.

10. Perpetration of unethical or unprofessional conduct in the practice of optometry.

11. Any violation of the provisions of this chapter or any regulations adopted pursuant thereto.

12. ~~*[Practicing or offering to practice optometry outside the scope of practice authorized by law.*~~

~~*13.]*~~ 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.

Sec. 14. NRS 636.300 is hereby amended to read as follows:

636.300 The following acts, among others, constitute unethical or unprofessional conduct:

1. Association as an optometrist with any person, firm or corporation violating this chapter.

2. Accepting employment ~~[,]~~ ***as an optometrist or in the practice of optometry,*** directly or indirectly, from a person not licensed to practice optometry in this State ***,*** ~~[to assist the person in such practice or enabling the person to engage therein,]~~ except as authorized in NRS 636.347.

3. Signing ***or using*** the prescription blanks of another optometrist ***, ophthalmologist or medical professional*** or allowing another optometrist, ***ophthalmologist or medical professional*** to ***sign or*** use his or her prescription blanks.

4. Except as otherwise provided in NRS 636.372 and 636.373, practicing in or on premises where any materials other than those necessary to render optometric examinations or services are dispensed to the public, or where a business is being conducted not exclusively devoted to optometry or other healing arts and materials or merchandise are displayed having no relation to the practice of optometry or other healing arts.

Sec. 15. NRS 636.302 is hereby amended to read as follows:

636.302 The following acts, among others, constitute unethical or unprofessional conduct:

1. Making a house-to-house canvass, either in person or by another person, for advertising, selling or soliciting the sale of ***contact lenses,*** eyeglasses, frames, lenses, mountings, or optometric examinations or services.

2. Circulating or publishing, directly or indirectly, any false, fraudulent or misleading statement as to optometric materials or services, his or her method of practice or skill, or the method of practice or skill of any other licensee.

3. Advertising in any manner that will tend to deceive, defraud or mislead the public.

~~[4. Advertising, directly or indirectly, free optometric examinations or services.]~~

Sec. 16. NRS 636.120 and 636.200 are hereby repealed.

Sec. 17. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTIONS

636.120 Roster of licensees: Preparation and distribution. Once each year, the Board shall prepare and distribute to all licensees a roster containing their names and addresses.

636.200 Scope of reexamination. An examinee whose request for reexamination has been granted may, at the discretion of the Board or the testing agency designated by the Board to conduct its examinations, be required to retake:

1. The entire examination; or
2. Only the section or sections of the examination on which the examinee did not receive the grade required to pass.

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. 618 to Assembly Bill No. 20 provides that a license to practice optometry does not authorize an optometrist to engage in any act or perform any procedure which is not authorized under the statutes or regulations pertaining to optometry.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

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

Senate in recess at 10:18 a.m.

SENATE IN SESSION

At 10:21 a.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 77.

Bill read second time.

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

Amendment No. 617.

"SUMMARY—Makes various changes relating to mortgage lending and related professionals. (BDR 54-481)"

"AN ACT relating to mortgage lending; revising provisions relating to the licensing of escrow agents and escrow agencies; revising provisions relating to a surety bond or substitute security posted by an escrow agency; requiring the Commissioner of Mortgage Lending to establish certain fees; revising provisions relating to disciplinary action for an escrow agent or escrow agency; establishing provisions governing the arranging or servicing of loans in which an investor has an interest; requiring a mortgage broker who services a loan to make certain reports; exempting certain natural persons and nonprofit organizations from statutes governing mortgage brokers and mortgage agents; revising provisions relating to a surety bond posted by a mortgage broker; requiring a mortgage broker to review an impound trust account annually; revising provisions relating to the renewal of a license as a mortgage banker; enacting requirements for mortgage brokers and for mortgage bankers to make the statutory schemes governing the two professions more similar; allowing disclosure of certain confidential information relating to an investigation; enacting provisions for the enforcement of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; requiring the licensing of a person who performs the services of a construction control; requiring the licensing of a provider of certain additional services as a provider of covered services; revising provisions relating to compensation for a provider of covered services; increasing certain administrative fines; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the conduct of escrow agents and escrow agencies and requires the Commissioner of Mortgage Lending to supervise and control the conduct of escrow agents and escrow agencies within this State. (Chapter 645A of NRS) **Section 3.5** of this bill includes the performance of the services of a construction control within the definition of escrow. **Sections 4 and 5** of this bill revise provisions relating to the licensing of escrow agents and escrow agencies. **Section 6** of this bill revises provisions relating to the surety bond posted by an escrow agency. **Sections 8 and 9** of this bill revise provisions relating to the fees and costs relating to escrow agents and escrow agencies that the Commissioner is authorized to collect. **Sections 2 and 10-12** of this bill revise provisions relating to discipline for activities relating to escrow agents and escrow agencies.

Existing law governs the conduct of mortgage agents and mortgage brokers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage agents and mortgage brokers within this State. (Chapter 645B of NRS) **Sections 21, 22, 24, 25, 34 and 37** of this bill establish provisions governing the arranging or servicing of loans by a mortgage broker in which an investor has an interest. **Section 44** of this bill revises the exemptions from the statutes governing mortgage agents and mortgage brokers. **Sections 47 and 48** of this bill revise provisions relating to a surety bond posted by a mortgage broker. **Section 53** of this bill

authorizes the Commissioner to disclose certain confidential information relating to an investigation. **Section 56** of this bill requires a mortgage broker to review an impound trust account annually.

Existing law governs the conduct of mortgage bankers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage bankers within this State. (Chapter 645E of NRS) **Section 72** of this bill revises the exemptions from the statutes governing mortgage bankers. **Section 81** of this bill authorizes the Commissioner to disclose certain confidential information relating to an investigation.

Existing law requires the Commissioner to adopt regulations concerning the licensing of persons who provide certain covered services. (NRS 645F.390) **Section 96** of this bill includes additional services within the definition of "covered services." **Section 101** of this bill revises provisions governing the compensation a provider of covered services may receive. **Existing law exempts an attorney at law from the requirements concerning the licensing of persons who provide covered services for compensation, but section 98 of this bill specifically provides that an attorney at law is subject to the provisions of section 88.5 of this bill, which prohibit a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.**

Sections 42, 45, 46, 50-55, 59, 60, 62-64, 67, 69, 73, 76, 79-82 and 99 of this bill enact or revise provisions to implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

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

Section 1. NRS 645.8725 is hereby amended to read as follows:

645.8725 "Escrow" has the meaning ascribed to it in subsection ~~[3]~~ *4* of NRS 645A.010.

Sec. 1.3. NRS 645.8731 is hereby amended to read as follows:

645.8731 "Escrow agent" has the meaning ascribed to it in subsection ~~[3]~~ *4* of NRS 645A.010.

Sec. 1.7. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***If a person offers or provides any of the services of an escrow agent or escrow agency or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of an escrow agent or escrow agency and, at the time:***

1. The person was required to have a license pursuant to this chapter and the person did not have such a license; or

2. The person's license was suspended or revoked pursuant to this chapter,

➥ ***the Commissioner shall impose upon the person an administrative fine of not more than $25,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.***

Sec. 3. ***1. If an escrow agency is not a natural person, the escrow agency must designate a natural person as a qualified employee to act on behalf of the escrow agency.***

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

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

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 3.5. NRS 645A.010 is hereby amended to read as follows:

645A.010 As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the Commissioner of Mortgage Lending.

2. ***"Construction control" has the meaning ascribed to it in NRS 627.050.***

3. "Division" means the Division of Mortgage Lending of the Department of Business and Industry.

~~[3.]~~ ***4.*** "Escrow" means any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor or any agent or employee of any of the latter. The term includes the collection of payments and the performance of related services by a third person in connection with a loan secured by a lien on real property ~~[.~~

~~4.]~~ ***and the performance of the services of a construction control***.

5. "Escrow agency" means:

(a) Any person who employs one or more escrow agents; or

(b) An escrow agent who administers escrows on his or her own behalf.

~~[5.]~~ ***6.*** "Escrow agent" means any person engaged in the business of administering escrows for compensation.

Sec. 4. NRS 645A.020 is hereby amended to read as follows:

645A.020 1. A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.

2. The application must:

(a) Be verified.

(b) Be accompanied by the appropriate fee prescribed in NRS 645A.040.

(c) State the location of the applicant's principal office and branch offices in the State and residence address.

(d) State the name under which the applicant will conduct business.

(e) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each.

(f) Indicate the general plan and character of the business.

(g) State the length of time the applicant has been engaged in the escrow business.

(h) Require a financial statement of the applicant.

(i) Require such other information as the Commissioner determines necessary.

(j) If for an escrow agency, designate a natural person to receive service of process in this State for the agency.

(k) ***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 escrow agency 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.***

(l) Include all information required to complete the application.

3. If the Commissioner determines, after investigation, that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public, the Commissioner shall issue a license to the applicant as an escrow agent or agency.

4. The Commissioner may waive the investigation required by subsection 3 if the applicant submits with the application satisfactory proof that the applicant, in good standing, currently holds a license, or held a license, within 1 year before the date the applicant submits his or her application, which was issued pursuant to the provisions of NRS 692A.103.

5. An escrow agent or agency shall immediately notify the Division of any material change in the information contained in the application.

6. A person may not be licensed as an escrow agent or agency or be a principal ***, partner,*** officer, director or trustee of an escrow agency if the person is the holder of an active license issued pursuant to chapter 645 of NRS.

7. If the Commissioner finds that additional information is required to consider the application, the Commissioner shall send a letter to the applicant which specifies the additional requirements that the applicant must satisfy within 30 days after receiving the letter to obtain a license. If the applicant does not satisfy all additional requirements set forth in the letter within 30 days after receipt of the letter, the application will be deemed to have been denied, and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

Sec. 5. NRS 645A.040 is hereby amended to read as follows:

645A.040 1. Every license issued pursuant to the provisions of this chapter expires on July 1 of each year if it is not renewed. A license may be renewed by filing an application for renewal, paying the annual fee for the succeeding year and submitting all information required to complete the renewal.

2. The fees for the issuance or renewal of a license for an escrow agency are:

(a) For filing an application for an initial license, $500 for the principal office and $100 for each branch office.

(b) If the license is approved for issuance, $200 for the principal office and $100 for each branch office. The fee must be paid before issuance of the license.

(c) For filing an application for renewal, $200 for the principal office and $100 for each branch office.

3. The fees for the issuance or renewal of a license for an escrow agent are:

(a) For filing an application for an initial license or for the renewal of a license, $100.

(b) If a license is approved for issuance or renewal, $25. The fee must be paid before the issuance or renewal of the license.

4. If a licensee fails to pay the fee or submit all required information for the annual renewal of his or her license before its expiration, the license may be renewed only upon the payment of a fee one and one-half times the amount otherwise required for renewal. A license may be renewed pursuant to this subsection only if all the fees are paid and all required information is submitted within ~~[1 year]~~ ***2 months*** after the date on which the license expired.

5. In addition to the other fees set forth in this section, each applicant or licensee shall pay:

(a) For filing an application for a duplicate copy of any license, upon satisfactory showing of its loss, $10.

(b) For filing any change of information contained in the application, $10.

(c) For each change of association with an escrow agency, $25.

6. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 6. NRS 645A.041 is hereby amended to read as follows:

645A.041 1. Except as otherwise provided in NRS 645A.042, as a condition to doing business in this State, each escrow agency shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the escrow agency and all escrow agents employed by or associated with the escrow agency.

2. At the time of filing an application for a license as an escrow agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond deposited with the Commissioner by the escrow agency with whom he or she is associated or employed.

3. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645A of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as an escrow agency or escrow agent by the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of ...(year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this .....(day) of .....(month) of ..….(year).

..... (Seal)
Principal
..... (Seal)
Surety
By .....
Attorney-in-fact

.....

Nevada Licensed

~~[resident agent]~~ ***Insurance Agent***

4. Each escrow agency shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 645A.042 in the following amount based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160:

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY REQUIRED
$50,000 or less	$20,000
More than $50,000 but not more than $250,000	50,000
More than $250,000 but not more than $500,000	100,000
More than $500,000 but not more than $750,000	150,000
More than $750,000 but not more than $1,000,000	200,000
More than $1,000,000	250,000

The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the escrow agency based upon the expected average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160. After the initial deposit, the Commissioner shall, on a semiannual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the escrow agency based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160.

5. A bond used to satisfy the requirements of NRS 627.180 or a substitute for that bond which satisfies the requirements of NRS 627.183 may be used to satisfy the requirements of this section if:

(a) The amount required by NRS 627.180 for a bond is not less than the amount required by this section for a bond; or

(b) The amount required by NRS 627.180 for a bond is less than the amount required by this section for a bond, and the escrow agency deposits an additional bond in an amount not less than the difference between the amount required by NRS 627.180 and the amount required by this section.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 645A.065 is hereby amended to read as follows:

645A.065 1. The Commissioner shall establish by regulation the fees to be paid by ~~[escrow agencies]~~ ***all persons subject to the provisions of this chapter*** for the supervision***, investigation*** and examination of such ~~[agencies]~~ ***persons*** by the Commissioner or the Division.

2. In establishing the fees, the Commissioner shall consider:

(a) The complexity of the various ***investigations and*** examinations to which the fees apply;

(b) The skill required to conduct such ***investigations and*** examinations;

(c) The expenses associated with conducting such ***investigations and*** examinations and preparing reports; and

(d) Any other factors the Commissioner deems relevant.

3. The Commissioner shall adopt regulations prescribing the standards for determining whether an escrow agency has maintained adequate supervision of an escrow agent pursuant to the provisions of this chapter.

Sec. 9. NRS 645A.085 is hereby amended to read as follows:

645A.085 1. An escrow agency shall immediately notify the Commissioner of any change in the ownership of 5 percent or more of its outstanding voting stock.

2. An application must be submitted to the Commissioner, pursuant to NRS 645A.020, by a person who acquires:

(a) At least 25 percent of the outstanding voting stock of an escrow agency; or

(b) Any outstanding voting stock of an escrow agency if the change will result in a change in the control of the escrow agency.

3. Except as otherwise provided in subsection 5, the Commissioner shall conduct an investigation to determine whether the applicant has the experience, character, financial condition, business reputation and general fitness to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public. If the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the escrow agency.

4. The escrow agency with which the applicant is affiliated shall pay ~~[a portion of]~~ the cost of the investigation as the Commissioner requires. All money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. An escrow agency may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

Sec. 10. NRS 645A.090 is hereby amended to read as follows:

645A.090 1. The Commissioner may refuse to license any escrow agent or agency or may suspend ***,*** ~~[or]~~ revoke ***or place conditions upon*** any license or impose a fine ***on any person*** of not more than ~~[$10,000]~~ ***$25,000*** for each violation by entering an order to that effect, with the Commissioner's findings in respect thereto, if upon a hearing, it is determined that the applicant ***,*** ~~[or]~~ licensee ~~[:]~~ ***or person:***

(a) In the case of an escrow agency, is insolvent;

(b) Has violated any provision of this chapter ***,*** ~~[or]~~ any regulation adopted pursuant thereto or ***an order of the Commissioner or*** has aided and abetted another to do so;

(c) In the case of an escrow agency, is in such a financial condition that he or she cannot continue in business with safety to his or her customers;

(d) Has committed fraud in connection with any transaction governed by this chapter;

(e) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact from, any principal or designated agent of a principal in the course of the escrow business;

(f) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from the Commissioner any information which the applicant ***,*** ~~[or]~~ licensee ***or person*** possesses;

(g) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

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

(j) Has been convicted of ***, entered or agreed to enter a plea of guilty or nolo contendere to,*** a felony relating to the practice of escrow agents or agencies or any ***felony*** *or* misdemeanor of which an essential element is ***an*** *act of* fraud ~~[,]~~ ***, dishonesty or a breach of trust, moral turpitude or money laundering;***

(k) In the case of an escrow agency, has failed to maintain complete and accurate records of all transactions within the last 6 years;

(l) Has commingled the money of others with his or her own or converted the money of others to his or her own use;

(m) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(n) Has failed to disclose in writing that he or she is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction; ~~[or]~~

(o) In the case of an escrow agency, has:

(1) Failed to maintain adequate supervision of an escrow agent; or

(2) Instructed an escrow agent to commit an act which would be cause for the revocation of the escrow agent's license and the escrow agent committed the act. An escrow agent is not subject to disciplinary action ***by the Commissioner*** for committing such an act under instruction by the escrow agency ~~[.]~~ ***;***

(p) In the case of an escrow agency, if the applicant or licensee is a partnership, corporation or unincorporated association, has a member of

the partnership or an officer or director of the corporation or unincorporated association who has been convicted of, entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court relating to the practice of escrow agents or agencies, or any felony or misdemeanor of which an essential element is an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering; or

(q) In the case of a person who performs the services of a construction control, has failed to comply with the provisions of chapter 627 of NRS.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of***, or the placement of conditions upon,*** the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend any license for not more than 30 days, pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in subsection 1 or 2 exist.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

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

Sec. 11. NRS 645A.100 is hereby amended to read as follows:

645A.100 1. Notice of the entry of any order of suspension ***,*** ~~[or]~~ revocation or ***placement of conditions upon a license or*** of imposing a fine or refusing a license to any escrow agent or agency must be given in writing, served personally or sent by certified mail or by telegram to the last known address of the agent or agency affected.

2. The agent or agency, upon application, is entitled to a hearing. If an application is not made within 20 days after the entry of the order, the Commissioner shall enter a final order.

Sec. 12. NRS 645A.235 is hereby amended to read as follows:

645A.235 1. ~~[The holder of]~~ ***A person who engages in an activity for which*** a license as an escrow agent or escrow agency ~~[may be]~~ ***is*** required ***pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required*** by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of

subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 13. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 40.7, inclusive, of this act.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. ***"Dwelling" has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

Sec. 17. (Deleted by amendment.)

Sec. 17.5. ***1. "Loan processor" means a natural person who:***

(a) Receives, collects, distributes or analyzes information that is commonly used for the processing of a residential mortgage loan; and

(b) Communicates with a consumer to obtain the information necessary for the activities described in paragraph (a).

2. The communication described in paragraph (b) of subsection 1 does not include communication offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

Sec. 18. ***"Majority of the investors" means the investors holding 51 percent or more of the beneficial interests in a loan.***

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. ***A mortgage broker shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan which has more than one investor at the time of origination unless the mortgage broker provides to each investor a form which allows the investor to choose one of the following options:***

1. That, upon receipt of a written request submitted by another investor who owns or has a beneficial interest in the loan, the mortgage broker may provide to that other investor the name, address, telephone number and electronic mail address of the investor;

2. That, upon receipt of a written request submitted by another investor who owns or has a beneficial interest in the loan, the mortgage broker may provide to that other investor the name, address, telephone number and electronic mail address of the investor only if the loan is in default; or

3. That the address, telephone number and electronic mail address of the investor must remain confidential and that the mortgage broker may not provide that information to any other investor unless the investor provides the mortgage broker with subsequent written permission to provide such information to other investors.

Sec. 22. ***1. A mortgage broker who makes or arranges a loan shall not include in any loan document a provision which requires a private investor to participate in binding arbitration of disputes relating to the loan.***

2. The provisions of this section may not be varied by agreement, and the rights conferred by this section may not be waived. Any provision included in a loan document agreement that conflicts with this section is void.

Sec. 23. (Deleted by amendment.)

Sec. 24. ***1. Before servicing a loan in which a private investor has acquired a beneficial interest, a mortgage broker must enter into a written servicing agreement with each investor which describes specifically the services which the mortgage broker will provide and the compensation the mortgage broker will receive for those services. The compensation of the mortgage broker must include an amount reasonably necessary to pay the cost of servicing the loan.***

2. A mortgage broker shall include in each servicing agreement provisions which:

(a) Require the mortgage broker to:

(1) Deposit in a trust account all money paid to the mortgage broker in full or partial payment of a loan, unless a provision of law authorizes the mortgage broker to deposit such money in a different manner;

(2) Release to the investors, pursuant to paragraph (a) of subsection 5 of NRS 645B.175, within 15 days after receipt of all money paid to the mortgage broker in full or partial payment of a loan;

(3) Record a request for special notice and notice of default for any encumbrance on the real property which has priority over the lien securing the loan or any other real property securing the loan;

(4) Provide to each investor prompt written notice of:

(I) Any lis pendens, mechanic's lien or other lien recorded against the real property securing the loan after the origination of the loan if the mortgage broker has become aware that such an instrument has been recorded; and

(II) Any delinquent taxes or insurance premiums;

(5) Upon receiving a written request from an investor for a tally of any vote of the investors, provide to the investor a statement of the number of investors voting in favor of an action and the number of investors voting against the action and the percentage of beneficial interest represented by each such vote; and

(6) Respond within a reasonable time under the circumstances to the request of the borrower or investor to correct any errors relating to the loan.

(b) Prohibit the mortgage broker from:

(1) Commingling with the assets of the mortgage broker any money paid to the mortgage broker in full or partial payment of a loan, unless a provision of law authorizes such commingling;

(2) Using money paid to the mortgage broker in full or partial payment of a loan for any transaction other than the servicing transaction

for which the money was paid, unless a provision of law authorizes such use ; or

(3) Requiring an investor to participate in binding arbitration of disputes relating to the loan.

(c) Allow the majority of investors or the mortgage broker to transfer the servicing agreement to another entity authorized to service loans or terminate the servicing agreement for any reason, upon providing written notice at least 30 days before the effective date of the transfer or termination.

Sec. 25. ***Except as otherwise permitted by law, a mortgage broker shall not release a borrower or guarantor from personal liability for a loan unless a majority of the investors approve such a release.***

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. ***1. If an investor owes money to the mortgage broker who is servicing a loan or to other investors, the mortgage broker shall not withhold money due the investor in order to offset the money owed to the mortgage broker or to another investor, unless:***

(a) The mortgage broker obtains the written consent of the investor who owes the money; or

(b) A court order requires the mortgage broker to withhold the money.

2. A mortgage broker may include in a loan servicing agreement a provision which provides written consent to withhold money due an investor in order to offset money owed by the investor to the mortgage broker or other investors.

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. ***A mortgage broker shall not act as a construction control with respect to money belonging to a borrower or investor. If a borrower or investor wishes to utilize a construction control for money belonging to the borrower or investor, a mortgage broker must place the money with a person who is independent of the mortgage broker and is licensed or authorized to accept such money. The money must be subject to the control of a construction control which is in compliance with, or exempt from, the provisions of NRS 627.180 or 627.183.***

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Sec. 40. (Deleted by amendment.)

Sec. 40.3. ***1. A mortgage broker shall not place or arrange to place a private investor into a limited-liability company, business trust or other entity before foreclosure of the real property securing the loan unless the mortgage broker:***

(a) Provides a copy of the organizational documents of the limited-liability company, business trust or other entity to each investor not later than 5 days before the investor transfers his or her interest in the loan; and

(b) Obtains the written authorization of each investor who wishes to transfer his or her interest in the loan to the limited-liability company, business trust or other entity.

2. The documents provided to each investor pursuant to paragraph (a) of subsection 1 must clearly and concisely state any fees which will be paid to the mortgage broker by the limited-liability company, business trust or other entity, and the sections of the documents that state fees must be initialed by the investor.

3. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of a private investor for the signing or dating of the written authorization.

4. Any term of a contract or other agreement that attempts to alter or waive the requirements of this section is void.

Sec. 40.7. ***1. A mortgage broker shall not assess or collect any fee which is not:***

(a) Authorized by the loan documents or loan servicing agreement; and

(b) Assessed or collected in exchange for bona fide services rendered or costs incurred.

2. A mortgage broker shall apply all fees collected in the manner set forth in the loan documents or loan servicing agreement.

Sec. 41. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0104 to 645B.0135, inclusive, ***and sections 14 to 18, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 42. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means:

(a) A natural person who:

(1) Is an employee of a mortgage broker or mortgage banker who is required to be licensed pursuant to this chapter or chapter 645E of NRS; and

(2) Is authorized by the mortgage broker or mortgage banker to engage in, on behalf of the mortgage broker or mortgage banker, any activity that would require the person, if the person were not an employee of the mortgage broker or mortgage banker, to be licensed as a mortgage broker or mortgage banker pursuant to this chapter or chapter 645E of NRS; ~~[or]~~

(b) A mortgage broker, qualified employee or mortgage banker who is required by NRS 645B.405 or 645E.290 to be licensed as a mortgage agent ~~[.]~~ ***; or***

(c) A loan processor who is an independent contractor and who is associated with a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016.

2. The term includes***, but is not limited to,*** a residential mortgage loan originator.

3. The term does not include a person who:

(a) Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage broker or mortgage banker;

(b) Is an owner, general partner, officer or director of a mortgage broker or mortgage banker ~~[,]~~ ***who does not engage in any activity that would otherwise require a license as a mortgage broker or mortgage banker;***

(c) ~~[Performs]~~ ***Except as otherwise provided in paragraph (c) of subsection 1, performs*** only clerical or ministerial tasks for a mortgage broker ~~[,]~~ or ***mortgage banker; or***

(d) Collects payments and performs related services, including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter 645E ***or 645F*** of NRS.

Sec. 43. NRS 645B.0132 is hereby amended to read as follows:

645B.0132 "Residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. ~~[For purposes of this section, "dwelling" has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).]~~

Sec. 44. NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, ***the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto and other applicable law,*** the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies ~~[,]~~ , including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in ***commercial*** loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within ~~[5]~~ ***3*** years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. A natural person who only offers or negotiates terms of a residential mortgage loan:

(a) With or on behalf of an immediate family member of the person; or

(b) Secured by a dwelling that served as the person's residence.

~~[8.]~~ ***9***. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

~~[9.]~~ ***10.*** A seller of real property who offers credit secured by a mortgage of the property sold.

11. A nonprofit agency or organization:

(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;

(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;

(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;

(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and

(e) Which does not profit from the sale of a dwelling to a borrower.

12. A housing counseling agency approved by the United States Department of Housing and Urban Development.

Sec. 45. NRS 645B.016 is hereby amended to read as follows:

645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his or her business, including, if applicable, the right to transact mortgage loans, and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~[9,]~~ ***12,*** inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker or mortgage agent or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, as applicable, pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that the person commits, if the person:

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by the person, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

7. A person who is exempt from the requirements of this chapter may file a written application for a certificate of exemption with the Office of the Commissioner for the purposes of complying with the requirements of the Registry or enabling a mortgage agent to comply with the requirements of the Registry.

8. The Commissioner may require an applicant or person described in subsection 7 to submit the information or pay the fee directly to the

Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry.

9. An application filed pursuant to subsection 7 does not affect the applicability of this chapter to such an applicant or person.

Sec. 46. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. ***The Commissioner may require the applicant or person to submit the information or pay the fee directly to the Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry.*** An application for a license as a mortgage broker 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 mortgage broker will conduct business within this State ~~[.]~~ ***, including, without limitation, any office or other place of business located outside this State from which the mortgage broker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.***

(b) State the name under which the applicant will conduct business as a mortgage broker.

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(d) Include a general business plan and a description of the policies and procedures that the mortgage broker and his or her mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(e) State the length of time the applicant has been engaged in the business of a ***mortgage*** broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(g) Include all information required to complete the application.

(h) ***Unless fingerprints were submitted to the Registry for the person, include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.***

(i) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage broker will conduct business ***in this State*** at one or more branch offices ***,*** ~~[within this State,]~~ the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided ~~[in this chapter,]~~ ***by law,*** the Commissioner shall issue a license to an applicant as a mortgage broker if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

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

(1) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

(2) Has not been convicted of, or entered ***or agreed to enter*** a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, ***moral turpitude*** or money laundering.

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

(4) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license ~~[suspended or]~~ revoked within the immediately preceding 10 years.

(5) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State, and the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➥ The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

Sec. 47. NRS 645B.042 is hereby amended to read as follows:

645B.042 1. ~~[Except as otherwise provided in NRS 645B.044, as]~~ ***As*** a condition to doing business in this State, each mortgage broker shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the mortgage broker and all mortgage agents employed by or associated with the mortgage broker.

2. At the time of filing an application for a license as a mortgage agent and at the time of filing an application for the renewal of a license as a mortgage agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond deposited with the Commissioner by the mortgage broker with whom the applicant is associated or employed.

3. The bond must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645B of NRS, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as a mortgage broker or mortgage agent by the Commissioner of Mortgage Lending and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645B of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645B of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the ..... (day) of ..... (month) of ..... (year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this ..... (day) of ..... (month) of ..... (year).

..... (Seal)
Principal
..... (Seal)
Surety
By .....
Attorney-in-fact
.....
Nevada Licensed
~~[resident agent]~~ ***Insurance Agent***

4. Each mortgage broker shall deposit a corporate surety bond that complies with the provisions of this section ~~[or a substitute form of security that complies with the provisions of NRS 645B.044]~~ in the following amounts:

(a) For ~~[the principal office,]~~ ***an annual loan production of $20,000,000 or less,*** $50,000.

(b) For ~~[each branch office, $25,000.~~

~~➥ The total amount required for the corporate surety bond may not exceed $75,000, without regard to the number of branch offices, if any.]~~ ***an annual loan production of more than $20,000,000, $75,000.***

5. Except as otherwise required by federal law or regulation, for the purposes of subsection 4, the Commissioner shall determine the appropriate amount of the surety bond that must be deposited initially by a mortgage broker based upon the expected annual loan production amount and shall determine the appropriate amount of the surety bond annually based upon the actual annual loan production.

Sec. 48. NRS 645B.046 is hereby amended to read as follows:

645B.046 1. The surety may cancel a bond upon giving 60 days' notice to the Commissioner by certified mail. Upon receipt by the Commissioner of such a notice, the Commissioner immediately shall notify the licensee who is the principal on the bond of the effective date of cancellation of the bond, and that his or her license will be revoked unless the licensee furnishes an equivalent bond ~~[or a substitute form of security authorized by NRS 645B.044]~~ before the effective date of the cancellation. The notice must be sent to the licensee by certified mail to his or her last address of record filed in the office of the Division.

2. If the licensee does not comply with the requirements set out in the notice from the Commissioner, the license must be revoked on the date the bond is cancelled.

Sec. 49. (Deleted by amendment.)

Sec. 50. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on ~~[June 30,]~~ ***December 31,*** unless it is renewed. To renew such a license, the licensee must submit to the Commissioner ***on or after November 1 and*** on or before ~~[May 31]~~ ***December 31*** of each year ~~[.]~~ ***, or on a date otherwise specified by the Commissioner by regulation:***

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051; and

(d) All information required ***by the Commissioner or, if applicable, required by the Registry*** to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner ***on or after November 1 and*** on or before ~~[~~May 31~~]~~ ***December 31*** of any year, ***unless a different date is specified by the Commissioner by regulation,*** the license is cancelled as of ~~[~~June 30~~]~~ ***December 31*** of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner ~~[~~:~~]~~ ***on or before February 28 of the following year:***

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) The information required pursuant to NRS 645B.051;

(d) Except as otherwise provided in this section, a reinstatement fee of not more than $200; and

(e) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner ***on or after November 1 and*** on or before ~~[~~November 30~~]~~ ***December 31*** of each year ~~[~~:~~]~~ ***or on a date otherwise specified by the Commissioner by regulation:***

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner ***on or after November 1 and*** on or before ~~[~~November 30~~]~~ ***December 31*** of any year, ***unless a different date is specified by the Commissioner by regulation,*** the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner ~~[~~:~~]~~ ***on or before February 28 of the following year:***

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than $100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, not more than $1,500 for the principal office and not more than $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than $1,000 for the principal office and not more than $60 for each branch office.

(c) To renew a license, not more than $500 for the principal office and not more than $100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than $200.

(b) To renew a certificate of exemption, not more than $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter are in addition to any fee required to be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee or date set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Commissioner or, if the licensee is required to register or voluntarily registers with the Registry, to the Commissioner through the Registry.

Sec. 51. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. Each mortgage broker shall keep and maintain at all times at each location where the mortgage broker conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage broker at that location. Each mortgage broker shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage broker.

2. Each mortgage broker shall submit to the Commissioner each month a report of the mortgage broker's activity for the previous month. The report must:

(a) Specify the volume of loans arranged by the mortgage broker for the month or state that no loans were arranged in that month;

(b) Include any information required pursuant to NRS 645B.260 or pursuant to the regulations adopted by the Commissioner; and

(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.

3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage brokers handling trust accounts and the requirements for keeping records relating to such accounts.

4. Each mortgage broker who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 52. NRS 645B.085 is hereby amended to read as follows:

645B.085 1. Except as otherwise provided in this section, not later than ~~[120]~~ ***90*** days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent ***certified*** public accountant who holds a ~~[permit]~~ ***license*** to ~~[engage in the]~~ practice ~~[of public accounting]~~ in this State ***or in any other state*** that has not been revoked or suspended.

2. ~~[The]~~ ***Unless otherwise prohibited by the Registry, the*** Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection ***1 or*** 4 of NRS 645B.175, those accounts must be audited. ~~[The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that the public accountant submits the report to the mortgage broker.]~~

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 53. NRS 645B.092 is hereby amended to read as follows:

645B.092 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, 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.

2. The complaint or other document filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.

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

4. The Commissioner may disclose any document or information made confidential under subsection 1 to the party against whom the complaint is made, a licensing board or agency, the Registry or any other governmental agency, including, without limitation, a law enforcement agency.

Sec. 54. NRS 645B.095 is hereby amended to read as follows:

645B.095 1. As used in this section, "change of control" means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage broker; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage broker.

2. The Commissioner must be notified ***in writing*** of a transfer of ~~[5]~~ ***10*** percent or more of the outstanding voting stock of a mortgage broker ***at least 15 days before such a transfer*** and must approve a transfer of voting stock of a mortgage broker which constitutes a change of control.

3. The person who acquires stock resulting in a change of control of the mortgage broker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter ***and the Registry, if applicable,*** for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 4, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the mortgage broker.

4. A mortgage broker may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

Sec. 55. NRS 645B.165 is hereby amended to read as follows:

645B.165 1. Except as otherwise ***permitted by law and as otherwise*** provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to a mortgage broker and his or her mortgage agents or any other person to obtain a loan which will be secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.

2. The amount held in escrow pursuant to subsection 1 must be released:

(a) Upon completion of the loan or commitment for the loan, to the mortgage broker or other person to whom the advance fee, salary, deposit or money was paid.

(b) If the loan or commitment for the loan fails, to the person who made the payment.

3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated

costs by item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645B.960.

Sec. 56. NRS 645B.170 is hereby amended to read as follows:

645B.170 1. All money paid to a mortgage broker and his or her mortgage agents for payment of taxes or insurance premiums on real property which secures any loan arranged by the mortgage broker must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage broker. Such money, when deposited, is to be designated as an "impound trust account" or under some other appropriate name indicating that the accounts are not the money of the mortgage broker.

2. The mortgage broker has a fiduciary duty to each debtor with respect to the money in an impound trust account.

3. The mortgage broker shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage broker for any money which that person has paid to the mortgage broker for the payment of taxes or insurance premiums on the real property.

4. The mortgage broker shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account.

5. A mortgage broker shall:

(a) Require contributions to an impound trust account in an amount reasonably necessary to pay the obligations as they become due.

(b) ***Undertake an annual review of an impound trust account.***

(c) Within 30 days after the completion of the annual review of an impound trust account, notify the debtor:

(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 debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage broker shall maintain the excess money in the account.

➥ This subsection does not prohibit a mortgage broker from requiring additional amounts to be paid into an impound trust account to recover a deficiency that exists in the account.

6. A mortgage broker shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.

Sec. 57. NRS 645B.186 is hereby amended to read as follows:

645B.186 1. If a licensee or a relative of the licensee is licensed as, conducts business as or holds a controlling interest or position in:

(a) A construction control;

(b) An escrow agency or escrow agent; or

(c) A title agent, a title insurer or an escrow officer of a title agent or title insurer,

➥ the licensee shall fully disclose his or her status as, connection to or relationship with the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer to each investor, and the licensee shall not require, as a condition to an investor acquiring ownership of or a beneficial interest in a loan secured by a lien on real property, that the investor transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer or that the investor authorize the licensee to transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer on behalf of the investor.

2. For the purposes of this section, a person shall be deemed to hold a controlling interest or position if the person:

(a) Owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, that gives the person the power to direct management or determine policy; or

(b) Is a partner, officer, director or trustee.

3. As used in this section, "licensee" means:

(a) A person who is licensed as a mortgage broker ***or mortgage agent*** pursuant to this chapter; and

(b) Any general partner, officer or director of such a person.

Sec. 58. NRS 645B.305 is hereby amended to read as follows:

645B.305 A mortgage broker shall ensure that each loan secured by a lien on real property for which he or she engages in activity as a mortgage broker ~~[~~:

~~1. Includes~~] ***includes*** a disclosure:

~~[(a)]~~ ***1.*** Describing, in a specific dollar amount, all fees earned by the mortgage broker;

~~[(b)]~~ ***2.*** Explaining which party is responsible for the payment of the fees described in ~~[paragraph (a);]~~ ***subsection 1;*** and

~~[(c)]~~ ***3.*** Explaining the probable impact the fees described in ~~[paragraph (a)]~~ ***subsection 1*** may have on the terms of the loan, including, without limitation, the interest rates.

~~[2. If a private investor has acquired a beneficial interest in the loan, includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.]~~

Sec. 59. NRS 645B.307 is hereby amended to read as follows:

645B.307 A mortgage broker shall ensure that each loan secured by a lien on real property for which he or she engages in activity as a mortgage broker includes ~~[the]~~ ***:***

1. If the mortgage broker is not registered with the Registry, the license number of the mortgage broker ~~[.]~~ ***; or***

2. Any identifying number issued by the Registry.

Sec. 60. NRS 645B.400 is hereby amended to read as follows:

645B.400 A person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the activities of a mortgage agent unless the person ~~[has]~~ ***:***

1. Has a license as a mortgage agent issued pursuant to NRS 645B.410.

2. Is an employee of or associated with a mortgage broker or mortgage banker.

3. If the person is required to register with the Registry, is registered with and provides any identifying number issued by the Registry.

Sec. 61. NRS 645B.410 is hereby amended to read as follows:

645B.410 1. To obtain a license as a mortgage agent, a person must:

(a) Be a natural person;

(b) File a written application for a license as a mortgage agent with the Office of the Commissioner;

(c) Comply with the applicable requirements of this chapter; ~~[and]~~

(d) Pay an application fee set by the Commissioner of not more than $185 ~~[.]~~ ***; and***

(e) Be:

(1) Employed by, or have received an offer of employment from, a mortgage broker;

(2) Employed by, or have received an offer of employment from, a mortgage banker;

(3) Associated with or employed by, or have received an offer of a contract with or an offer of employment from, a person who holds a certificate of exemption pursuant to NRS 645B.016; or

(4) A loan processor who is not an employee and who is associated with, or has received an offer of a contract with, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016.

2. An application for a license as a mortgage agent must:

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives written consent to ***the Division and, if applicable, the Registry for*** an investigation of his or her credit history, criminal history and background;

(c) ~~[Include]~~ ***Unless fingerprints were submitted to the Registry, include*** **a** complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~[If not licensed as a mortgage broker or mortgage banker pursuant to this chapter or chapter 645E of NRS, include]~~ ***Include*** a verified statement from the mortgage broker ***,*** ~~[or]~~ mortgage banker ***or person who holds a certificate of exemption pursuant to NRS 645B.016*** with whom the applicant will be associated ***or employed*** that expresses the intent of that mortgage broker ***,*** ~~[or]~~ mortgage banker ***or exempt person*** **to** ***employ or***

associate the applicant with the mortgage broker ***,*** ~~[or]~~ mortgage banker ***or exempt person*** and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner ***,*** ~~[or]~~ by an order of the Commissioner ~~[.]~~ ***or, if applicable, by the Registry.*** Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided ~~[in this chapter,]~~ ***by law,*** the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter ~~[;]~~ ***, other applicable law and, if applicable, the Registry;*** and

(b) The applicant:

(1) Has not been convicted of, or entered ***or agreed to enter*** a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, ~~[or]~~ money laundering ~~[;]~~ ***or moral turpitude;***

(2) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or had a financial services license ~~[suspended or]~~ revoked within the immediately preceding 10 years;

(3) Has not made a false statement of material fact on his or her application;

(4) Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and

(5) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

4. Money received by the Commissioner pursuant to this section is in addition to any fee required to be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. The Commissioner may require the submission of an item or the payment of a fee required by this section directly to the Commissioner or, if the person submitting the item or fee is required to register or voluntarily registers with the Registry, to the Commissioner through the Registry.

Sec. 62. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires ~~[1 year after the date the license is issued,]~~ ***each year on December 31,*** unless it is renewed. To renew a license as a mortgage agent, the holder of the license must ***continue to meet the requirements of subsection 3 of NRS 645B.410 and must*** submit to the Commissioner ~~[each~~

~~year,~~ ***on or after November 1 and*** on or before ~~[the date the license expires:]~~ ***December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:***

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner ~~[each year]~~ ***on or after November 1 and*** on or before ~~[the date the license expires,]~~ ***December 31 of any year, unless a different date is specified by the Commissioner by regulation,*** the license is cancelled ~~[.]~~ ***as of December 31 of that year***. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner ~~[:]~~ ***on or before February 28 of the following year:***

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

3. ~~[To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.~~

~~4.]~~ To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

~~[5.]~~ ***4.*** Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

~~[6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.~~

~~7.]~~ ***5. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.***

6. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 63. NRS 645B.450 is hereby amended to read as follows:

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one ***licensed or registered*** mortgage broker ***or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** at the same time.

2. A mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker ***, mortgage banker or exempt person*** as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. ***Before allowing a mortgage agent to act on its behalf, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016 must:***

(a) Enter its sponsorship of the mortgage agent with the Registry; or

(b) If the mortgage agent is not required to be registered with the Registry, notify the Division of its sponsorship of the mortgage agent.

3. If a mortgage agent terminates his or her association or employment with a mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** for any reason, the mortgage broker ***, mortgage banker or exempt person*** shall, not later than the third business day following the date of termination:

(a) ~~[Deliver]~~ ***Remove its sponsorship of the mortgage agent from the Registry; or***

(b) If the mortgage agent is not required to be registered with the Registry, deliver **to the** ***Division and to the*** mortgage agent ~~[or send by certified mail to]~~ ***at*** the last known residence address of the mortgage agent a written statement which ~~[advises the mortgage agent that the termination is being reported to the Division; and~~

~~(b) Deliver or send by certified mail to the Division:~~

~~(1) The license or license number of the mortgage agent;~~

~~(2) A written statement of the circumstances surrounding the termination; and~~

~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).]~~ ***includes the name, address and license number of the mortgage agent and a statement of the circumstances of the termination.***

Sec. 64. NRS 645B.490 is hereby amended to read as follows:

645B.490 ***Except as otherwise required by the Registry for persons who are required to register or voluntarily register with the Registry:***

1. Any mortgage broker or mortgage agent licensed under the provisions of this chapter who is called into military service of the United States shall, at his or her request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.

2. At any time within 6 months after termination of such service, if the mortgage broker or mortgage agent complies with the provisions of subsection 1, the mortgage broker or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or

645B.430, and the mortgage broker or mortgage agent is not required to make payment of the renewal fee for the current year.

3. Any mortgage broker or mortgage agent seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his or her honorable discharge or certificate of satisfactory service to the Commissioner.

Sec. 65. NRS 645B.600 is hereby amended to read as follows:

645B.600 1. A person may file with the Commissioner a complaint alleging that another person has violated a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. A complaint filed pursuant to this section must:

(a) Be in writing;

(b) Be signed by the person filing the complaint or the ~~[authorized representative]~~ ***designee*** of the person filing the complaint;

(c) Contain an address and a telephone number for the person filing the complaint or the ~~[authorized representative]~~ ***designee*** of the person filing the complaint;

(d) Describe the nature of the alleged violation in as much detail as possible;

(e) Include as exhibits copies of all documentation supporting the complaint; and

(f) Include any other information or supporting materials required by the regulations adopted by the Commissioner or by an order of the Commissioner.

Sec. 66. NRS 645B.670 is hereby amended to read as follows:

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

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $25,000 if the applicant:

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

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

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

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $25,000, may suspend, revoke or place conditions upon the mortgage broker's license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

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

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

(d) Is in such financial condition that the mortgage broker cannot continue in business with safety to his or her customers;

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

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

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

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

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

(j) Has been convicted of, or entered ***or agreed to enter*** a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, ***moral turpitude*** or money laundering.

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

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

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

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

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

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

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

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

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

(1) Had been convicted of, or entered ***or agreed to enter*** a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, ***moral turpitude*** or money laundering; or

(2) Had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license or registration ~~[suspended or]~~ revoked within the immediately preceding 10 years;

(t) Has violated NRS 645C.557; ***or***

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

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

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than $25,000, may suspend, revoke or place conditions upon the mortgage agent's license, or may do both, if the mortgage agent, whether or not acting as such:

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

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

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

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

mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered ***or agreed to enter*** a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, ***moral turpitude*** or money laundering.

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

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

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

(i) Has violated NRS 645C.557;

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

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

Sec. 67. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; ~~[or]~~

(b) ***The person was required to be registered with the Registry and the person was not so registered; or***

(c) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $50,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his or her books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than ~~[$10,000]~~ ***$25,000*** for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) Makes or offers for sale in this State any investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060,

➥ the Commissioner shall suspend or revoke the license of the mortgage broker.

Sec. 68. NRS 645B.955 is hereby amended to read as follows:

645B.955 1. ~~[The holder of]~~ ***A person who engages in an activity for which*** a license as a mortgage broker or mortgage agent ~~[may be]~~ ***is*** required ***pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required*** by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 69. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

"Nationwide Mortgage Licensing System and Registry" or "Registry" has the meaning ascribed to it in NRS 645B.0128.

Sec. 70. NRS 645E.010 is hereby amended to read as follows:

645E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645E.100, inclusive, ***and section 69 of this act*** have the meanings ascribed to them in those sections.

Sec. 71. NRS 645E.040 is hereby amended to read as follows:

645E.040 "Commercial property" means any real property which is located in this state and which is ~~[not]~~ ***neither*** used ~~[for a residential dwelling or dwellings intended for occupancy by four or fewer families.]~~ ***as a dwelling nor upon which a dwelling is constructed or intended to be constructed. For the purposes of this section, "dwelling" has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

Sec. 72. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, ***the Secure and Fair Enforcement for Mortgage Licensing Act of 2008,***

12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto or other applicable law, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker.

6. Any person doing any act under an order of any court.

7. Any one natural person, or husband and wife, who provides money for investment in ***commercial*** loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within ~~[~~5~~]~~ ***3*** years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. A natural person who only offers or negotiates terms of a residential mortgage loan:

(a) With or on behalf of an immediate family member of the person; or

(b) Secured by a dwelling that served as the person's residence.

~~[~~8.~~]~~ ***9.*** Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

~~[~~9.~~]~~ ***10.*** A seller of real property who offers credit secured by a mortgage of the property sold.

11. A nonprofit agency or organization:

(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;

(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;

(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;

(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and

(e) Which does not profit from the sale of a dwelling to a borrower.

12. A housing counseling agency approved by the United States Department of Housing and Urban Development.

Sec. 73. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his or her business, including, if applicable, the right to transact mortgage loans, and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~[9,]~~ ***12,*** inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage banker or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage banker unless the person applies for and is issued:

(a) A license as a mortgage banker pursuant to this chapter; or

(b) Another certificate of exemption.

6. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than $10,000 for each violation that he or she commits, if the person:

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him or her, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

7. A person who is exempt from the requirements of this chapter may file a written application for a certificate of exemption with the Office of the Commissioner for the purposes of complying with the requirements of the Registry or enabling a mortgage agent to comply with the requirements of the Registry.

8. The Commissioner may require an applicant or person described in subsection 7 to submit the information or pay the fee directly to the Division or, if the applicant or person is required to register or voluntarily registers with the Registry, to the Division through the Registry.

9. An application filed pursuant to subsection 7 does not affect the applicability of this chapter to such an applicant or person.

Sec. 74. NRS 645E.170 is hereby amended to read as follows:

645E.170 1. A person may apply to the Commissioner for an exemption from the provisions of this chapter governing the making of a loan of money ~~.~~ ***only for a loan secured by commercial property.***

2. The Commissioner may grant the exemption if the Commissioner finds that:

(a) The making of the loan would not be detrimental to the financial condition of the lender or the debtor;

(b) The lender or the debtor has established a record of sound performance, efficient management, financial responsibility and integrity;

(c) The making of the loan is likely to increase the availability of capital for a sector of the state economy; and

(d) The making of the loan is not detrimental to the public interest.

3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his or her decision to grant, deny or revoke an exemption.

Sec. 75. NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage banker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage banker must:

(a) Be verified.

(b) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage banker will conduct business in this State, including, without limitation, any office or other place of business located outside this State from which the mortgage banker will conduct business in this State ~~.~~ ***and***

any office or other place of business which the applicant maintains as a corporate or home office.

(c) State the name under which the applicant will conduct business as a mortgage banker.

(d) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(e) Indicate the general plan and character of the business.

(f) State the length of time the applicant has been engaged in the business of a mortgage banker.

(g) Include a financial statement of the applicant.

(h) ***Include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.***

(i) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage banker will conduct business in this State at one or more branch offices, the mortgage banker must apply for a license for each such branch office.

3. Except as otherwise provided ~~[in this chapter,]~~ ***by law,*** the Commissioner shall issue a license to an applicant as a mortgage banker if:

(a) The application ***is verified by the Commissioner and*** complies with the requirements of this chapter ~~[;]~~ ***, other applicable law and, if applicable, the Registry;*** and

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

(1) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage banker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.~~

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

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

~~(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 645B of NRS suspended or revoked within the 10 years immediately preceding the date of application.~~

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

~~(6)~~ ***demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter. For the purposes of this subparagraph, the factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:***

(I) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens, judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

(II) The circumstances surrounding any adverse material items in the person's personal credit history; and

(III) Any instance of fraud, misrepresentation, dishonest business practices, the mishandling of trust funds or other types of comparable behavior.

(2) Has not been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering.

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

(4) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license revoked within the immediately preceding 10 years.

(5) Has not violated any provision of this chapter or chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any officer or director of the corporation or unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

5. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any

investigation or examination made at the office or place of business located outside this State.

➥ The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

Sec. 76. NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner ***on or after November 1 and*** on or before December 31 of each year ~~[.]~~ ***, or on a date otherwise specified by the Commissioner by regulation:***

(a) An application for renewal that complies with the requirements of this chapter; ~~[and]~~

(b) The fee required to renew the license pursuant to this section ~~[.]~~ ***; and***

(c) All information required by the Commissioner or, if applicable, required by the Registry to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner ***on or after November 1 and*** on or before December 31 of any year, ***unless a different date is specified by the Commissioner by regulation,*** the license is cancelled ~~[.]~~ ***as of December 31 of that year***. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner ~~[.]~~ ***on or before February 28 of the following year:***

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; ~~[and]~~

(c) ~~[A]~~ ***Except as otherwise provided in this section, a*** reinstatement fee of not more than $200 ~~[.]~~ ***; and***

(d) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner ***on or after November 1 and*** on or before December 31 of each year ~~[.]~~ ***, or on a date otherwise specified by the Commissioner by regulation:***

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner ***on or after November 1 and*** on or before December 31 of any year***, unless a different date is specified by the Commissioner by regulation,*** the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner ~~[.]~~ ***on or before February 28 of the following year:***

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) ~~[~~A~~]~~ ***Except as otherwise provided in this section, a*** reinstatement fee of not more than $100.

5. ~~[~~A~~]~~ ***Except as otherwise provided in this section, a*** person must pay the following fees to apply for, to be issued or to renew a license as a mortgage banker pursuant to this chapter:

(a) To file an original application for a license, not more than $1,500 for the principal office and not more than $40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, not more than $1,000 for the principal office and not more than $60 for each branch office.

(c) To renew a license, not more than $500 for the principal office and not more than $100 for each branch office.

6. ~~[~~A~~]~~ ***Except as otherwise provided in this section,*** *a* person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, not more than $200.

(b) To renew a certificate of exemption, not more than $100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than $10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter ***are in addition to any fee required to be paid to the Registry and*** must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.

Sec. 77. NRS 645E.290 is hereby amended to read as follows:

645E.290 1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a ~~[~~residential mortgage~]~~ loan originator or who supervises a mortgage agent who engages in activities as a ~~[~~residential mortgage~]~~ loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a ~~[~~residential

~~mortgage]~~ loan originator, must be licensed as a mortgage agent pursuant to the provisions of NRS 645B.400 to 645B.460, inclusive.

2. As used in this section ~~[, "residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.]~~ ***:***

(a) "Clerical or ministerial tasks" means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a loan.

(b) "Loan originator" means a natural person who takes a loan application or offers or negotiates terms of a loan for compensation or other pecuniary gain. The term does not include:

(1) A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

(2) A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D).

Sec. 78. NRS 645E.291 is hereby amended to read as follows:

645E.291 1. A mortgage banker shall exercise reasonable supervision over the activities of his or her mortgage agents and must also be licensed as a mortgage agent if required pursuant to NRS 645E.290. Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for the mortgage agents;

(b) The establishment of a system to review, oversee and inspect the activities of the mortgage agents, including, without limitation:

(1) Transactions handled by the mortgage agents pursuant to this chapter;

(2) Communications between the mortgage agents and a party to such a transaction;

(3) Documents prepared by the mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; and

(4) The handling by the mortgage agents of any fee, deposit or money paid to the mortgage banker or the mortgage agents or held in trust by the mortgage banker or the mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of the mortgage agents.

2. The Commissioner shall allow a mortgage banker to take into consideration the total number of mortgage agents associated with or employed by the mortgage banker when the mortgage banker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage ~~[broker]~~ ***banker*** has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

Sec. 79. NRS 645E.350 is hereby amended to read as follows:

645E.350 1. Each mortgage banker shall keep and maintain at all times at each location where the mortgage banker conducts business in this State complete and suitable records of all mortgage transactions made by the mortgage banker at that location. Each mortgage banker shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage banker.

2. Each mortgage banker shall submit to the Commissioner each month a report of the mortgage banker's activity for the previous month. The report must:

(a) Specify the volume of loans made by the mortgage banker for the month or state that no loans were made in that month;

(b) Include any information required pursuant to the regulations adopted by the Commissioner; and

(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.

3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage bankers handling trust accounts and the requirements for keeping records relating to such accounts.

4. A licensee who operates outside this State an office or other place of business which is licensed pursuant to this chapter shall:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

➥ The licensee must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

5. Each mortgage banker who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 80. NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than ~~[120]~~ ***90*** days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage banker by an independent ***certified*** public accountant who holds a ~~[permit]~~ ***license*** to

~~[engage in the]~~ practice ~~[of public accounting]~~ in this State ***or in any other state*** that has not been revoked or suspended.

2. ~~[The]~~ ***Unless otherwise prohibited by the Registry, the*** Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. ~~[The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he or she submits the report to the mortgage banker.]~~

4. The Commissioner may require the financial statement to be submitted directly to the Commissioner or, if the mortgage banker that submits the financial statement is required to register or voluntarily registers with the Registry, to the Division through the Registry.

5. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 81. NRS 645E.375 is hereby amended to read as follows:

645E.375 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, 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.

2. The complaint or other document filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.

3. The Commissioner may disclose any document or information made confidential under subsection 1 to the party against whom the complaint is made, a licensing board or agency, the Registry or any other governmental agency, including, without limitation, a law enforcement agency.

Sec. 82. NRS 645E.390 is hereby amended to read as follows:

645E.390 1. The Commissioner must be notified of a transfer of ~~[5]~~ ***10*** percent or more of the outstanding voting stock of a mortgage banker and must approve a transfer of voting stock of a mortgage banker which constitutes a change of control.

2. The person who acquires stock resulting in a change of control of the mortgage banker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter ***and of the Registry, if applicable,*** for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 3, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, the Commissioner

may forbid the applicant from participating in the business of the mortgage banker.

3. A mortgage banker may submit a written request to the Commissioner to waive an investigation pursuant to subsection 2. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

4. As used in this section, "change of control" means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage banker; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage banker.

Sec. 83. NRS 645E.420 is hereby amended to read as follows:

645E.420 1. Except as otherwise ***permitted by law and as otherwise*** provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to any mortgage banker or other person to obtain a loan secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.

2. The amount held in escrow pursuant to subsection 1 must be released:

(a) Upon completion of the loan or commitment for the loan, to the mortgage banker or other person to whom the advance fee, salary, deposit or money was paid.

(b) If the loan or commitment for the loan fails, to the person who made the payment.

3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated costs by item and the estimated aggregate cost, and which recites that money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645E.960.

Sec. 84. NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than ~~[$10,000]~~ ***$25,000*** if the applicant:

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

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

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and

filing his or her application for a license or during the course of the investigation of his or her application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than ~~[$10,000,]~~ ***$25,000,*** may suspend, revoke or place conditions upon the license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

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

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

(d) Is in such financial condition that the licensee cannot continue in business with safety to his or her customers;

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

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

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

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

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

(j) Has been convicted of, or entered ***or agreed to enter*** a plea of nolo contendere to, a felony ~~[relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;]~~ ***in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering;***

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

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

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

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

(o) Has violated NRS 645C.557;

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

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

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

Sec. 85. NRS 645E.690 is hereby amended to read as follows:

645E.690 1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $50,000 for each violation and, if the person has a license, the Commissioner ~~[shall]~~ ***may suspend or*** revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his or her books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than ~~[$10,000]~~ ***$25,000*** for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 86. NRS 645E.955 is hereby amended to read as follows:

645E.955 1. ~~[The holder of]~~ ***A person who engages in an activity for which*** a license as a mortgage banker ~~[may be]~~ ***is*** required ***pursuant to this chapter, without regard to whether such a person is licensed pursuant to***

this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 87. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 88, ~~[89]~~ **88.5** and 90 of this act.

Sec. 88. ***"Residence" means a structure that contains not more than four individual units designed or intended for occupancy regardless of whether such a structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home or trailer used for occupancy.***

Sec. 88.5. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall not claim, demand, charge, collect or receive any compensation before a homeowner has executed a written agreement with the lender or servicer incorporating the offer of mortgage assistance obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.

Sec. 89. (Deleted by amendment.)

Sec. 90. ***1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of an installment loan lender licensed under chapter 675 of NRS shall obtain and maintain a license as a mortgage agent.***

2. As used in this section:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.

Sec. 91. NRS 645F.280 is hereby amended to read as follows:

645F.280 1. The Commissioner shall establish by regulation rates to be paid by ~~[escrow agencies, mortgage agents, mortgage brokers, mortgage bankers, persons who perform any covered service for compensation, foreclosure consultants and loan modification consultants]~~ ***all persons licensed by the Commissioner or the Division*** for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:

(a) The complexity of the various examinations to which the rate applies;

(b) The skill required to conduct the examinations;

(c) The expenses associated with conducting the examination and preparing a report; and

(d) Any other factors the Commissioner deems relevant.

Sec. 92. NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each ~~[~~:

~~(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;~~

~~(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS;~~

~~(c) Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS;~~

~~(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS; and~~

~~(e) Person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant that is supervised pursuant to this chapter.~~] ***person licensed by the Commissioner or the Division.***

2. The Commissioner shall determine the total amount of all assessments to be collected from the ~~[entities]~~ ***persons*** identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from ~~[an entity]~~ ***a person*** for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each ~~[entity]~~ ***person*** identified in subsection 1 an assessment that is based on:

(a) An equal basis; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by ~~[an entity]~~ ***a person*** identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

Sec. 93. NRS 645F.291 is hereby amended to read as follows:

645F.291 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) ***Compel the production of any books, records or papers by subpoena.***

(c) Administer oaths.

~~[(c)]~~ ***(d)*** Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the

Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 94. NRS 645F.294 is hereby amended to read as follows:

645F.294 1. Except as otherwise provided in section 1512 of Public Law 110-289, ***12 U.S.C. § 5111,*** the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal ***law or the*** laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.

2. Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against,

➥ residential mortgage loan originators included in the Registry for access by the public.

Sec. 95. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and ~~[section]~~ sections 88 and 88.5 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, ***and section 88 of this act*** have the meanings ascribed to them in those sections.

Sec. 96. NRS 645F.310 is hereby amended to read as follows:

645F.310 "Covered service" includes, without limitation:

1. Financial counseling ~~[,]~~ ***to a homeowner,*** including, without limitation, debt counseling and budget counseling.

2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a residence in foreclosure.

3. Contacting a creditor on behalf of a homeowner.

4. Arranging or attempting to arrange for an extension of the period within which a homeowner may cure a default and reinstate an obligation pursuant to a note, mortgage or deed of trust.

5. Arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale ~~[.]~~ ***of a residence in foreclosure***.

6. Advising ***a homeowner regarding*** the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court.

7. Giving any advice, explanation or instruction to a homeowner which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on ~~[the]~~ ***a*** residence ***,*** ~~[in foreclosure,]~~ the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.

8. Arranging or conducting, or attempting to arrange or conduct, for a homeowner any forensic loan audit or review or other audit or review of loan documents.

9. Arranging or attempting to arrange for a homeowner the purchase by a third party of the homeowner's mortgage loan.

10. Arranging or attempting to arrange for a homeowner a reduction of the principal of the homeowner's mortgage loan when such a mortgage loan is held by or serviced by a third party.

11. Providing the services of a loan modification consultant.

12. Providing the services of a foreclosure consultant.

Sec. 97. NRS 645F.370 is hereby amended to read as follows:

645F.370 "Residence in foreclosure" means residential real property consisting of not more than four family dwelling units ~~[, one of]~~ ~~*[a residence which the homeowner occupies as his or her principal place of residence,]*~~ and 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. 98. NRS 645F.380 is hereby amended to read as follows:

645F.380 ~~[The]~~

1. Except as otherwise provided in subsection 2, the provisions of NRS 645F.300 to 645F.450, inclusive, ***and*** ~~*[section]*~~ ***sections 88 and 88.5 of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

~~[1.]~~ ***(a)*** An attorney at law rendering services in the performance of his or her duties as an attorney at law ***,*** ~~*[and his or her employees,]*~~ unless the attorney at law is ~~*[or his or her employees are]*~~ rendering those services in the course and scope of his or her employment by or other affiliation with a

~~[mortgage broker or mortgage agent;]~~ ***person who is licensed or required to be licensed pursuant to NRS 645F.390;***

~~[2.]~~ ***(b)*** A provider of debt-management services registered pursuant to chapter 676A of NRS while providing debt-management services pursuant to chapter 676A of NRS;

~~[3.]~~ ***(c)*** A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank ~~[,]~~ ***System;***

~~[4.]~~ ***(d)*** A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

~~[5.]~~ ***(e)*** Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

~~[6.]~~ ***(f)*** A person, other than a person who is licensed pursuant to NRS 645F.390, who is licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the authority of the license;

~~[7.]~~ ***(g)*** A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

~~[8.]~~ ***(h)*** A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

2. The provisions of section 88.5 of this act apply to an attorney at law who renders services in the performance of his or her duties as an attorney at law regardless of whether the attorney at law renders those services in the course and scope of his or her employment by or other affiliation with a person who is licensed or required to be licensed pursuant to NRS 645F.390.

Sec. 99. NRS 645F.390 is hereby amended to read as follows:

645F.390 1. The Commissioner shall adopt ~~[separate]~~ regulations for the licensing of:

(a) A person who performs any covered service for compensation;

(b) A foreclosure consultant; and

(c) A loan modification consultant.

2. The regulations must prescribe, without limitation:

(a) The method and form of application for a license;

(b) The method and form of the issuance, denial or renewal of a license;

(c) The grounds and procedures for the revocation, suspension or nonrenewal of a license; ~~[and]~~

(d) The imposition of reasonable fees for application and licensure ~~[.]~~ ***; and***

(e) Any provisions necessary to comply with the provisions of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Public Law 110-289, 12 U.S.C. §§ 5101 et seq., including registration with the Registry, and the Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322, as promulgated by the Federal Trade Commission.

3. An application for a license pursuant to this section must 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 person who performs any covered service 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.

Sec. 100. NRS 645F.392 is hereby amended to read as follows:

645F.392 1. A person who performs any covered service for compensation ~~[, a foreclosure consultant and a loan modification consultant]~~ shall execute a written contract with a homeowner before providing any covered service.

2. The Commissioner shall adopt regulations describing the information that must be contained in a written contract for covered services.

Sec. 101. NRS 645F.394 is hereby amended to read as follows:

645F.394 ~~[1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:~~

~~(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;~~

~~(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and~~

~~(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant until the completion of every covered service as agreed upon in the contract for covered services.~~

~~2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The~~

~~records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.~~

~~3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he or she maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.~~

~~4. As used in this section, "completion of every covered service" means:~~

~~(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or~~

~~(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,~~

~~as verified in a written statement provided to the homeowner.~~] ***A person licensed or required to be licensed pursuant to NRS 645F.390 may not request or receive payment of any fee or other compensation from a homeowner until such a person has fully complied with the provisions of the Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322, and any other applicable federal law or regulation.***

Sec. 102. NRS 645F.400 is hereby amended to read as follows:

645F.400 1. A person who performs any covered service ~~[, a foreclosure consultant and a loan modification consultant]~~ shall not:

(a) Claim, demand, charge, collect or receive any compensation except in accordance with NRS 645F.394.

(b) Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

(c) Take ***or acquire, directly or indirectly,*** any wage assignment, lien on real or personal property, assignment of a homeowner's equity ~~[or other]~~ ***,*** ***any*** interest in a residence ~~[in foreclosure]~~ or other security for the payment of compensation. Any such ***assignment or*** security is void and unenforceable.

(d) Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

(e) ~~[Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.~~

~~(f)]~~ Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of NRS 205.372.

Sec. 103. NRS 645F.410 is hereby amended to read as follows:

645F.410 1. In addition to any other remedy or penalty, the Commissioner may, after giving notice and opportunity to be heard, impose an administrative penalty of not more than ~~[$10,000 on a foreclosure consultant]~~ ***$25,000 on any person licensed or required to be licensed pursuant to NRS 645F.390*** who violates any provision of ~~[NRS 645F.400.]~~ ***this chapter or any regulation adopted pursuant thereto or any other applicable law.***

2. Except as otherwise provided in this section, all money collected from administrative penalties imposed pursuant to this section must be deposited in the State General Fund.

3. The money collected from an administrative penalty may be deposited with the State Treasurer for credit to the Fund for Mortgage Lending created by NRS 645F.270 if:

(a) The person pays the administrative penalty without exercising the right to a hearing to contest the penalty; or

(b) The administrative penalty is imposed in a hearing conducted by a hearing officer or panel appointed by the Commissioner.

4. The Commissioner may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Commissioner to conduct hearings, determine violations and impose the penalties authorized by this section.

5. If money collected from an administrative penalty is deposited in the State General Fund, the Commissioner may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 104. NRS 645F.420 is hereby amended to read as follows:

645F.420 1. A homeowner who is injured as a result of a ~~[foreclosure consultant's]~~ ***person's*** violation of a provision of NRS 645F.400 may bring an action against the ~~[foreclosure consultant]~~ ***person*** to recover damages caused by the violation, together with reasonable attorney's fees and costs.

2. If the homeowner prevails in the action, the court may award such punitive damages as may be determined by a jury, or by a court sitting without a jury, but in no case may the punitive damages be less than one and one-half times the amount awarded to the homeowner as actual damages.

Sec. 105. NRS 658.210 is hereby amended to read as follows:

658.210 1. ~~[Any]~~ ***Except as otherwise provided in section 90 of this act, any*** person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:

(a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

(b) "Residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.

Sec. 106. NRS 645B.044 is hereby repealed.

Sec. 106.5. 1. The Commissioner shall issue a provisional license as an escrow agency or an escrow agent, as applicable, to a person if, on or before October 1, 2011, the person submits to the Commissioner:

(a) For a provisional license as an escrow agency, proof satisfactory to the Commissioner that the person is a construction control and that the majority of the business conducted by the person is business in which the person serves as a construction control;

(b) For a provisional license as an escrow agent, proof satisfactory to the Commissioner that the person is a natural person who engages in activity related to the business of a construction control on behalf of a construction control who holds a provisional license as an escrow agency or holds a license as an escrow agency;

(c) A complete application for a license as an escrow agency or an escrow agent, as applicable, which complies with the requirements of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto, accompanied by all other documentation and materials required of an applicant for a license as an escrow agency or an escrow agent, as applicable, by the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto, except for regulations adopted pursuant to NRS 645A.021;

(d) For a provisional license as an escrow agency, a bond which complies with the requirements of NRS 645A.041, as amended by section 6 of this act, or a substitute for that bond which complies with the requirements of NRS 645A.042; and

(e) A statement satisfactory to the Commissioner, signed by the person, that the person understands the provisions of this section including, without limitation, the provisions governing the expiration of a provisional license.

2. Upon receipt of documentation and materials from a person pursuant to subsection 1, the Commissioner shall:

(a) Determine whether the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agency or an escrow agent;

(b) If the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agency, issue to the person a provisional license as an escrow agency;

(c) If the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agent, issue to the person a provisional license as an escrow agent; and

(d) Without regard to whether the Commissioner issues a provisional license as an escrow agency or an escrow agent to the person pursuant to paragraph (b) or (c), if the person has submitted all documentation and materials required by paragraph (c) of subsection 1 to apply for a license as an escrow agency or an escrow agent, process the materials as an application for a license as an escrow agency or an escrow agent, as applicable, in accordance with the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto. Notwithstanding any provisions of this paragraph to the contrary, if the Commissioner issues a provisional license as an escrow agency or an escrow agent to the person pursuant to paragraph (b) or (c), the Commissioner may cease any processing of the person's application for a license as an escrow agency or an escrow agent, as applicable, upon expiration of the provisional license pursuant to the provisions of this section.

3. Except as otherwise provided in this section, a provisional license as an escrow agency or an escrow agent shall be deemed to be a license as an escrow agency or an escrow agent, as applicable.

4. A provisional license expires automatically:

(a) Notwithstanding the provisions of subsection 7, upon receipt by the person of written notice from the Commissioner that the Commissioner has denied, for any reason, the person's application for a license as an escrow agency or an escrow agent, as applicable;

(b) Upon the issuance to the person by the Commissioner of a license as an escrow agency or an escrow agent, as applicable;

(c) Ninety days after the date of issuance of the provisional license if the holder of the provisional license:

(1) Is a natural person who is required by NRS 645A.021 and any regulations adopted pursuant thereto to complete educational prerequisites to obtain a license as an escrow agency or an escrow agent, as applicable;

(2) Has not completed the educational prerequisites specified in subparagraph (1) as required for an applicant for a license as an escrow agency or an escrow agent, as applicable; and

(3) Has not requested, or the Commissioner has denied a request by the holder for, an extension of the time for completion of the educational prerequisites specified in this paragraph; or

(d) On December 31, 2011, if the holder of the provisional license has not requested, or the Commissioner has denied a request by the holder for, an extension of the expiration date set forth in this paragraph.

5. A request for an extension pursuant to subparagraph (3) of paragraph (c) of subsection 4 or paragraph (d) of subsection 4 must set forth reasons which would support a finding by the Commissioner of good cause to grant the extension. The Commissioner may grant such a request for an

extension only upon a finding by the Commissioner that good cause exists to grant such an extension.

6. The Commissioner shall not issue a provisional license to a person who submits the documentation and materials required by subsection 1 for a provisional license after October 1, 2011.

7. A provisional license issued by the Commissioner before July 1, 2011:

(a) Is effective on July 1, 2011; and

(b) Shall be deemed to have been issued on July 1, 2011.

8. As used in this section:

(a) "Commissioner" has the meaning ascribed to it in NRS 645A.010.

(b) "Construction control" has the meaning ascribed to it in NRS 627.050.

(c) "License" means a license as an escrow agency or an escrow agent, as applicable, issued pursuant to the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto.

(d) "Provisional license" means a provisional license as an escrow agency or an escrow agent, as applicable, issued pursuant to the provisions of this section.

Sec. 107. This act becomes effective:

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

2. On July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

645B.044 Mortgage broker may deposit substitute form of security in lieu of security bond; amount deposited must equal amount of bond; interest or dividends accrue to depositor.

1. As a substitute for the surety bond required by NRS 645B.042, a mortgage broker may, in accordance with the provisions of this section, deposit with any bank or trust company authorized to do business in this State, in a form approved by the Commissioner:

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond. With the approval of the Commissioner, the depositor may substitute other suitable obligations for those deposited which must be assigned to the State of Nevada and are negotiable only upon approval by the Commissioner.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be in an amount at least equal to the required surety bond and must state that the amount may not be withdrawn except by direct and sole order of the Commissioner. The value of any item deposited pursuant to this section must be based upon principal amount or market value, whichever is lower.

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. 617 to Assembly Bill No. 77 prohibits an attorney or an employee of an attorney from requesting or receiving any compensation for providing services as a foreclosure consultant or in connection with obtaining a mortgage loan modification until the homeowner has executed a written agreement with the lender which incorporates the offer of mortgage assistance obtained on behalf of the homeowner by the attorney or employee of the attorney.

The amendment also changes the definition of the term "residence in foreclosure" to make it consistent with the use of the term "foreclosure consultant" in other statutes and with the Federal Trade Commission rules applicable to dwellings. The effect of this change is to ensure the protections of the bill apply to dwellings with one to four units as well as single family residences.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 260.

Bill read second time and ordered to third reading.

Assembly Bill No. 282.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 576.

"SUMMARY—Revises various provisions concerning firearms. (BDR 15-962)"

"AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the

sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. **Section 4** of this bill revises the fee for the renewal of a permit from $25 to the amount of the actual cost to obtain the reports required as part of the investigation by the sheriff.

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance

to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~[one or more specific]~~ ***for*** semiautomatic firearms, or for revolvers and ~~[one or more specific]~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~[each specific]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or revolvers and ~~[each such]~~ semiautomatic ~~[firearm,]~~ ***firearms,*** as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➥ Such a course must include instruction in the use of revolvers, ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or revolvers and ~~[each such]~~ semiautomatic ~~[firearm]~~ ***firearms*** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this

section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~[The make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g)]~~ ***Whether the application pertains to semiautomatic firearms;***

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee in the amount ~~[necessary]~~ ***of the actual cost*** to obtain the ~~[report]~~ ***reports*** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed $60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, ***including an application for the renewal of a permit pursuant to NRS 202.3677,*** the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. ***The investigation also must include a report from the National Instant Criminal Background Check System.*** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily

submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County.....	Permit Number .....
Expires	Date of Birth .....
Height	Weight .....
Name.....	Address .....
City	Zip .....

Photograph

Signature .....
Issued by .....
Date of Issue .....
~~[Make, model and caliber of each authorized semiautomatic firearm if any]~~

Semiautomatic firearms authorized ..... Yes..... No

Revolvers authorized ..... Yes..... No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~[and]~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~[,]~~ ***or permittee;***

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

➥ are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive,

including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~[complete]~~ ***:***

(a) Complete and submit to the sheriff who issued the permit an application for renewal of the permit ~~[.]~~ ***; and***

(b) Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee ~~[of $25.]~~ ***in the amount of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.***

➥ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of $15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or with revolvers and ~~[each such]~~ semiautomatic ~~[firearm,]~~ ***firearms,*** as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:

(1) The possession of firearms; or

(2) Engaging in lawful resistance to prevent an offense against a person or property.

➥ Any regulation which violates the provisions of this paragraph is void.

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

Sec. 6. **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 changes the effective date of the bill to July 1, 2011.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 382.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Roberson moved that Assembly Bill No. 398 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 Assembly Bills Nos. 78, 365, 422, 477, 551, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 483.

Bill read second time and ordered to third reading.

Assembly Bill No. 566.

Bill read second time and ordered to third reading.

Assembly Joint Resolution No. 5 of the 75th Session.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 206.

Bill read third time.

Remarks by Senators Hardy, Leslie and Roberson.

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

SENATOR HARDY:

Thank you, Mr. President. The definition of lobbyist means to me, if I am lobbied by someone who is already a registered lobbyist in this Session, and am lobbied by someone who is

not a registered lobbyist in this Session, at what point does a non-lobbyist become a lobbyist and do the required quarterly report about being a lobbyist, even though they were not before they lobbied me?

SENATOR LESLIE:
This bill is tied to those who are registered during the Session. If they deregister after the Session is over, they are no longer required to fill out reports. In the case you are referencing, Senator Hardy, I do not think the bill applies. They would have to register as a lobbyist again before the provisions would apply.

SENATOR HARDY:
Then a lobbyist can deregister as a lobbyist so, therefore, that person no longer has to do a quarterly report even though that person is going to register again as a lobbyist in the next session.

SENATOR LESLIE:
Thank you, Mr. President. In that scenario, then that person would not be allowed to lobby you in the interim.

SENATOR ROBERSON:
I stand in strong support of Senator Leslie's bill. It is time we cleaned this building up and this is a good start.

Roll call on Senate Bill No. 206:
YEAS—21.
NAYS—None.

Senate Bill No. 206 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 19.
Bill read third time.
Roll call on Assembly Bill No. 19:
YEAS—21.
NAYS—None.

Assembly Bill No. 19 having received a two-thirds majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 138.
Bill read third time.
Roll call on Assembly Bill No. 138:
YEAS—20.
NAYS—Gustavson.

Assembly Bill No. 138 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 227.
Bill read third time.

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

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 237.

Bill read third time.

Remarks by Senator Lee.

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

Assembly Bill No. 237 allows Washoe County to participate in the County Bond Bank when issuing bonds or other securities for the County's program to assist persons hooking up to a municipal water or sewer system. Revenue from general property taxes may not be used to repay special obligation bonds issued for this assistance program. The bill limits any loans financed by such bonds to natural persons. For securities issued under this assistance program, the bill raises the limit on interest rates by 2 percent so that the total limit is 5 percent over the Index of Twenty Bonds for general obligation bonds and the Index of Revenue Bonds for special obligations.

The bill is effective upon passage and approval.

This measure was requested by the Legislative Committee to Oversee the Western Regional Water Commission. Assembly Bill No. 54 in the 2009 75th Session enabled Washoe County to adopt an ordinance setting up the assistance program for persons needing assistance to hook up to the municipal water or sewer systems.

Roll call on Assembly Bill No. 237:
YEAS—21.
NAYS—None.

Assembly Bill No. 237 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 246.

Bill read third time.

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

Senate in recess at 10:43 a.m.

SENATE IN SESSION

At 10:47 a.m.

President Krolicki presiding.

Quorum present.

Roll call on Assembly Bill No. 246:
YEAS—21.
NAYS—None.

Assembly Bill No. 246 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 248.

Bill read third time.

Roll call on Assembly Bill No. 248:

YEAS—21.

NAYS—None.

Assembly Bill No. 248 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 249.

Bill read third time.

Roll call on Assembly Bill No. 249:

YEAS—21.

NAYS—None.

Assembly Bill No. 249 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 253.

Bill read third time.

Roll call on Assembly Bill No. 253:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Schneider, Settelmeyer—10.

Assembly Bill No. 253 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 254.

Bill read third time.

Roll call on Assembly Bill No. 254:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 276.

Bill read third time.

Roll call on Assembly Bill No. 276:

YEAS—21.

NAYS—None.

Assembly Bill No. 276 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 280.

Bill read third time.

Roll call on Assembly Bill No. 280:

YEAS—21.

NAYS—None.

Assembly Bill No. 280 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 290.

Bill read third time.

Roll call on Assembly Bill No. 290:

YEAS—21.

NAYS—None.

Assembly Bill No. 290 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 292.

Bill read third time.

Roll call on Assembly Bill No. 292:

YEAS—20.

NAYS—Parks.

Assembly Bill No. 292 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 306.

Bill read third time.

Roll call on Assembly Bill No. 306:

YEAS—21.

NAYS—None.

Assembly Bill No. 306 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 313.

Bill read third time.

Roll call on Assembly Bill No. 313:

YEAS—21.

NAYS—None.

Assembly Bill No. 313 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 317.

Bill read third time.

Roll call on Assembly Bill No. 317:

YEAS—21.

NAYS—None.

Assembly Bill No. 317 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 318.

Bill read third time.

Roll call on Assembly Bill No. 318:

YEAS—21.

NAYS—None.

Assembly Bill No. 318 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 362.

Bill read third time.

Roll call on Assembly Bill No. 362:

YEAS—21.

NAYS—None.

Assembly Bill No. 362 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 368.

Bill read third time.

Roll call on Assembly Bill No. 368:

YEAS—21.

NAYS—None.

Assembly Bill No. 368 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 373.

Bill read third time.

Roll call on Assembly Bill No. 373:

YEAS—21.

NAYS—None.

Assembly Bill No. 373 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 395.

Bill read third time.

Roll call on Assembly Bill No. 395:

YEAS—21.

NAYS—None.

Assembly Bill No. 395 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 396.

Bill read third time.

Roll call on Assembly Bill No. 396:

YEAS—21.

NAYS—None.

Assembly Bill No. 396 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bill No. 410 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 23, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 11.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

GENERAL FILE AND THIRD READING

Assembly Bill No. 420.

Bill read third time.

Roll call on Assembly Bill No. 420:

YEAS—21.

NAYS—None.

Assembly Bill No. 420 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 451.

Bill read third time.

Roll call on Assembly Bill No. 451:
YEAS—21.
NAYS—None.

Assembly Bill No. 451 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 454.

Bill read third time.

Roll call on Assembly Bill No. 454:
YEAS—21.
NAYS—None.

Assembly Bill No. 454 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 455.

Bill read third time.

Roll call on Assembly Bill No. 455:
YEAS—21.
NAYS—None.

Assembly Bill No. 455 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 456.

Bill read third time.

The following amendment was proposed by Senator Hardy:

Amendment No. 763.

"SUMMARY—Revises provisions governing the attendance of pupils and graduation from high school. (BDR 34-1140)"

"AN ACT relating to education; authorizing certain pupils to receive a standard high school diploma without passing all subject areas of the high school proficiency examination under certain circumstances; authorizing the board of trustees of a school district to adopt a policy that allows certain pupils enrolled in high school the opportunity to make up credit; authorizing a juvenile court to impose certain orders against the parent or legal guardian of a child who is adjudicated in need of supervision because the child is a habitual truant; revising provisions governing employment of minors; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prescribes a standard high school diploma and an adjusted diploma and requires that to receive a standard high school diploma, a pupil must satisfy the requirements for graduation from high school and either pass the high school proficiency examination in its entirety or fail to pass certain subject areas on the examination and satisfy certain alternative criteria

prescribed by the State Board of Education. (NRS 389.805) **Section 5** of this bill provides that a pupil who has failed to pass the same subject area of the high school proficiency examination each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate, may receive a standard high school diploma if the pupil obtained a cumulative score that meets the required cumulative score prescribed by the State Board and also satisfies certain additional conditions. **Section 5** also removes the satisfaction of the existing alternative criteria as a means by which a pupil may receive a standard high school diploma. **Section 9.5** of this bill requires the board of trustees of each school district, on or before December 31, 2012, to submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report on the number of pupils who were awarded a standard high school diploma pursuant to the criteria prescribed by **section 5**.

Section 6 of this bill authorizes school districts to adopt a policy that allows a high school pupil who has failed to comply with minimum attendance requirements the opportunity to make up the credits which the pupil missed during his or her absence.

Existing law prescribes the actions which must be taken by a juvenile court against a child who has been adjudicated in need of supervision because the child is a habitual truant. (NRS 62E.430) **Section 7** of this bill authorizes a juvenile court to order the parent or legal guardian of such a child to attend conferences with the child's teacher and appropriate school administrators to address the status of the child as a habitual truant and to develop a plan to ensure that the child attends school.

Section 8 of this bill authorizes the parent or legal guardian of a child between the ages of 16 and 18 years to indicate on a work permit that is issued to the child by the county, if any, the maximum number of hours that his or her child may work and the particular hours in which that work may occur during the week or on the weekend.

Existing law provides that a child under the age of 16 years may be employed in certain occupations for not more than 48 hours in any 1 week and 8 hours in any 1 day. (NRS 609.240) **Section 9** of this bill revises the hours that a child may be employed to 20 hours in any 1 week when school is in session and 48 hours in any 1 week when school is not in session.

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 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 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 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 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]~~ ***Subsection*** 1 of NRS 389.805; and

(II) ~~[Paragraph (b) of subsection 1 of NRS 389.805.]~~ ***Subsection 4 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 ~~[.]~~ ***or otherwise failed to satisfy the requirements of NRS 389.805.***

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

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the State Board and the charter schools sponsored by a college or university within the Nevada System of Higher Education.

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

(7) The most recent 3-year trend in pupil achievement in each subject area tested and each grade level tested pursuant to NRS 389.015 and 389.550, which may include information regarding the trend in the achievement of pupils for more than 3 years, if such information is available.

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

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

(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 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 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 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 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]~~ ***Subsection*** 1 of NRS 389.805; and

(II) ~~[Paragraph (b) of subsection 1 of NRS 389.805.]~~ ***Subsection 4 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 ~~[.]~~ ***or otherwise failed to satisfy the requirements of NRS 389.805.***

(ee) 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) "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 389.015 is hereby amended to read as follows:

389.015 1. The board of trustees of each school district shall administer examinations in all public schools of the school district. The governing body of a charter school shall administer the same examinations in the charter school. The examinations administered by the board of trustees and governing body must determine the achievement and proficiency of pupils in:

(a) Reading;

(b) Mathematics; and

(c) Science.

2. The examinations required by subsection 1 must be:

(a) Administered before the completion of grades 4, 7, 10 and 11.

(b) Administered in each school district and each charter school at the same time during the spring semester. The time for the administration of the examinations must be prescribed by the State Board.

(c) Administered in each school in accordance with uniform procedures adopted by the State Board. The Department shall monitor the compliance of school districts and individual schools with the uniform procedures.

(d) Administered in each school in accordance with the plan adopted pursuant to NRS 389.616 by the Department and with the plan adopted pursuant to NRS 389.620 by the board of trustees of the school district in which the examinations are administered. The Department shall monitor the compliance of school districts and individual schools with:

(1) The plan adopted by the Department; and

(2) The plan adopted by the board of trustees of the applicable school district, to the extent that the plan adopted by the board of trustees of the school district is consistent with the plan adopted by the Department.

(e) Scored by a single private entity that has contracted with the State Board to score the examinations. The private entity that scores the examinations shall report the results of the examinations in the form and by the date required by the Department.

3. Not more than 14 working days after the results of the examinations are reported to the Department by a private entity that scored the

examinations, the Superintendent of Public Instruction shall certify that the results of the examinations have been transmitted to each school district and each charter school. Not more than 10 working days after a school district receives the results of the examinations, the superintendent of schools of each school district shall certify that the results of the examinations have been transmitted to each school within the school district. Except as otherwise provided in this subsection, not more than 15 working days after each school receives the results of the examinations, the principal of each school and the governing body of each charter school shall certify that the results for each pupil have been provided to the parent or legal guardian of the pupil:

(a) During a conference between the teacher of the pupil or administrator of the school and the parent or legal guardian of the pupil; or

(b) By mailing the results of the examinations to the last known address of the parent or legal guardian of the pupil.

➥ If a pupil fails the high school proficiency examination, the school shall notify the pupil and the parents or legal guardian of the pupil of each subject area that the pupil failed as soon as practicable but not later than 15 working days after the school receives the results of the examination.

4. If a pupil fails to demonstrate at least adequate achievement on the examination administered before the completion of grade 4, 7 or 10, the pupil may be promoted to the next higher grade, but the results of the pupil's examination must be evaluated to determine what remedial study is appropriate. If such a pupil is enrolled at a school that has failed to make adequate yearly progress or in which less than 60 percent of the pupils enrolled in grade 4, 7 or 10 in the school who took the examinations administered pursuant to this section received an average score on those examinations that is at least equal to the 26th percentile of the national reference group of pupils to which the examinations were compared, the pupil must, in accordance with the requirements set forth in this subsection, complete remedial study that is determined to be appropriate for the pupil.

5. Except as otherwise provided in subsection 6, if a pupil fails to pass the high school proficiency examination, the pupil must not be graduated unless he or she:

(a) Is able, through remedial study, to pass the proficiency examination; or

(b) ***Failed to pass the same subject area of the proficiency examination each time the pupil took the examination, including the final administration of the examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate, and satisfies the requirements of subsection 4 of NRS 389.805,*** ~~[Passes the subject areas of mathematics and reading tested on the proficiency examination, has at least a 2.75 grade point average on a 4.0 grading scale and satisfies the alternative criteria prescribed by the State Board pursuant to NRS 389.805,]~~

➥ but the pupil may be given a certificate of attendance, in place of a diploma, if the pupil has reached the age of 18 years.

6. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of subsection 5 if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

7. The State Board shall prescribe standard examinations of achievement and proficiency to be administered pursuant to subsection 1. The high school proficiency examination must include the subjects of reading, mathematics and science and, except for the writing portion prescribed pursuant to NRS 389.550, must be developed, printed and scored by a nationally recognized testing company in accordance with the process established by the testing company. The examinations on reading, mathematics and science prescribed for grades 4, 7 and 10 must be selected from examinations created by private entities and administered to a national reference group, and must allow for a comparison of the achievement and proficiency of pupils in grades 4, 7 and 10 in this State to that of a national reference group of pupils in grades 4, 7 and 10. The questions contained in the examinations and the approved answers used for grading them are confidential, and disclosure is unlawful except:

(a) To the extent necessary for administering and evaluating the examinations.

(b) That a disclosure may be made to a:

(1) State officer who is a member of the Executive or Legislative Branch to the extent that it is necessary for the performance of his or her duties;

(2) Superintendent of schools of a school district to the extent that it is necessary for the performance of his or her duties;

(3) Director of curriculum of a school district to the extent that it is necessary for the performance of his or her duties; and

(4) Director of testing of a school district to the extent that it is necessary for the performance of his or her duties.

(c) That specific questions and answers may be disclosed if the Superintendent of Public Instruction determines that the content of the questions and answers is not being used in a current examination and making the content available to the public poses no threat to the security of the current examination process.

(d) As required pursuant to NRS 239.0115.

Sec. 4. NRS 389.0173 is hereby amended to read as follows:

389.0173 1. The Department shall develop an informational pamphlet concerning the high school proficiency examination for pupils who are enrolled in junior high, middle school and high school, and their parents and legal guardians. The pamphlet must include a written explanation of the:

(a) Importance of passing the examination, including, without limitation, an explanation that if the pupil fails the examination, or does not satisfy the requirements of ~~[paragraph (b) of]~~ subsection ~~[1]~~ ***4*** of NRS 389.805, the pupil is not eligible to receive a standard high school diploma;

(b) Subject areas tested on the examination;

(c) Format for the examination, including, without limitation, the range of items that are contained on the examination;

(d) Manner by which the scaled score, as reported to pupils and their parents or legal guardians, is derived from the raw score;

(e) Timeline by which the results of the examination must be reported to pupils and their parents or legal guardians;

(f) Maximum number of times that a pupil is allowed to take the examination if the pupil fails to pass the examination after the first administration;

(g) Courses of study that the Department recommends that pupils take to prepare the pupils to successfully meet the academic challenges of the examination and pass the examination; and

(h) Courses of study which the Department recommends that pupils take in high school to successfully prepare for the college entrance examinations.

2. The Department shall review the pamphlet on an annual basis and make such revisions to the pamphlet as it considers necessary to ensure that pupils and their parents or legal guardians fully understand the examination.

3. On or before September 1, the Department shall provide a copy of the pamphlet or revised pamphlet to the board of trustees of each school district and the governing body of each charter school that includes pupils enrolled in a junior high, middle school or high school grade level.

4. The board of trustees of each school district shall provide a copy of the pamphlet to each junior high, middle school or high school within the school district for posting. The governing body of each charter school shall ensure that a copy of the pamphlet is posted at the charter school. Each principal of a junior high, middle school, high school or charter school shall ensure that the teachers, counselors and administrators employed at the school fully understand the contents of the pamphlet.

5. On or before January 15, the:

(a) Board of trustees of each school district shall provide a copy of the pamphlet to each pupil who is enrolled in a junior high, middle school or high school of the school district and to the parents or legal guardians of such a pupil.

(b) Governing body of each charter school shall provide a copy of the pamphlet to each pupil who is enrolled in the charter school at a junior high,

middle school or high school grade level and to the parents or legal guardians of such a pupil.

Sec. 5. NRS 389.805 is hereby amended to read as follows:

389.805 1. Except as otherwise provided in ~~[~~subsection 3,~~]~~ ***subsections 3 and 4,*** a pupil must receive a standard high school diploma if the pupil ~~[~~:

~~(a) Passes~~] ***passes*** all subject areas of the high school proficiency examination administered pursuant to NRS 389.015 and otherwise satisfies the requirements for graduation from high school . ~~[~~; or

~~(b) Has failed to pass the high school proficiency examination administered pursuant to NRS 389.015 in its entirety not less than two times before beginning grade 12 and the pupil:~~

~~(1) Passes the subject areas of mathematics and reading on the proficiency examination;~~

~~(2) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;~~

~~(3) Satisfies the alternative criteria prescribed by the State Board pursuant to subsection 4; and~~

~~(4) Otherwise satisfies the requirements for graduation from high school.~~]

2. A pupil with a disability who does not satisfy the requirements for receipt of a standard high school diploma may receive a diploma designated as an adjusted diploma if the pupil satisfies the requirements set forth in his or her individualized education program. As used in this subsection, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

3. A pupil who transfers during grade 12 to a school in this State from a school outside this State because of the military transfer of the parent or legal guardian of the pupil may receive a waiver from the requirements of ~~[~~paragraphs (a) and (b) of subsection~~]~~ ***subsections*** 1 ***and 4*** if, in accordance with the provisions of NRS 392C.010, the school district in which the pupil is enrolled:

(a) Accepts the results of the exit or end-of-course examinations required for graduation in the local education agency in which the pupil was previously enrolled;

(b) Accepts the results of a national norm-referenced achievement examination taken by the pupil; or

(c) Establishes an alternative test for the pupil which demonstrates proficiency in the subject areas tested on the high school proficiency examination, and the pupil successfully passes that test.

4. ***A pupil must receive a standard high school diploma if the pupil has failed to pass the same subject area of the high school proficiency examination administered pursuant to NRS 389.015 each time the pupil took the examination, including the final administration of the***

examination to the pupil before the date on which he or she is otherwise regularly scheduled to graduate and the pupil:

(a) Has earned sufficient credits to receive a standard high school diploma;

(b) Has an overall grade point average of not less than 2.75 on a 4.0 grading scale;

(c) Satisfies the minimum attendance requirements established by the board of trustees of the school district pursuant to NRS 392.122;

(d) Does not have any disciplinary action pending against him or her; and

(e) Has obtained a cumulative score on the high school proficiency examinations that meets the required cumulative score prescribed by the State Board, which must be calculated using the highest scores received over all instances in which the examination was taken. ~~[The State Board shall adopt regulations that prescribe the alternative criteria for a pupil to receive a standard high school diploma pursuant to paragraph (b) of subsection 1, including, without limitation:~~

~~(a) An essay;~~

~~(b) A senior project; or~~

~~(c) A portfolio of work,~~

~~➥ or any combination thereof, that demonstrate proficiency in the subject areas on the high school proficiency examination which the pupil failed to pass.]~~

Sec. 6. NRS 392.122 is hereby amended to read as follows:

392.122 1. The board of trustees of each school district shall prescribe a minimum number of days that a pupil who is subject to compulsory attendance and enrolled in a school in the district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade. The board of trustees of a school district may adopt a policy prescribing a minimum number of days that a pupil who is enrolled in kindergarten or first grade in the school district must be in attendance for the pupil to obtain credit or to be promoted to the next higher grade.

2. For the purposes of this section, the days on which a pupil is not in attendance because the pupil is absent for up to 10 days within 1 school year with the approval of the teacher or principal of the school pursuant to NRS 392.130, must be credited towards the required days of attendance if the pupil has completed course-work requirements. The teacher or principal of the school may approve the absence of a pupil for deployment activities of the parent or legal guardian of the pupil, as defined in NRS 392C.010. If the board of trustees of a school district has adopted a policy pursuant to subsection 5, the 10-day limitation on absences does not apply to absences that are excused pursuant to that policy.

3. Except as otherwise provided in ~~[subsection 5,]~~ ***subsections 5 and 6,*** before a pupil is denied credit or promotion to the next higher grade for failure to comply with the attendance requirements prescribed pursuant to

subsection 1, the principal of the school in which the pupil is enrolled or the principal's designee shall provide written notice of the intended denial to the parent or legal guardian of the pupil. The notice must include a statement indicating that the pupil and the pupil's parent or legal guardian may request a review of the absences of the pupil and a statement of the procedure for requesting such a review. Upon the request for a review by the pupil and the pupil's parent or legal guardian, the principal or the principal's designee shall review the reason for each absence of the pupil upon which the intended denial of credit or promotion is based. After the review, the principal or the principal's designee shall credit towards the required days of attendance each day of absence for which:

(a) There is evidence or a written affirmation by the parent or legal guardian of the pupil that the pupil was physically or mentally unable to attend school on the day of the absence; and

(b) The pupil has completed course-work requirements.

4. A pupil and the pupil's parent or legal guardian may appeal a decision of a principal or the principal's designee pursuant to subsection 3 to the board of trustees of the school district in which the pupil is enrolled.

5. The board of trustees of a school district may adopt a policy to exempt pupils who are physically or mentally unable to attend school from the limitations on absences set forth in subsection 1. If a board of trustees adopts a policy pursuant to this subsection:

(a) A pupil who receives an exemption pursuant to this subsection is not exempt from the minimum number of days of attendance prescribed pursuant to subsection 1.

(b) The days on which a pupil is physically or mentally unable to attend school must be credited towards the required days of attendance if the pupil has completed course-work requirements.

(c) The procedure for review of absences set forth in subsection 3 does not apply to days on which the pupil is absent because the pupil is physically or mentally unable to attend school.

6. ***The board of trustees of a school district may adopt a policy that allows a pupil enrolled in high school who has failed to comply with the minimum attendance requirements pursuant to subsection 1 for which he or she will be denied credit the opportunity to make up those credits. The policy must provide that such a pupil may obtain credit if the pupil is not absent from school for any additional days during the current grading period for which credit may be earned and the pupil:***

(a) Enrolls in a program in addition to the regular high school program that provides additional time and instruction for the pupil to make up the material missed due to the pupil's absences; or

(b) Passes a comprehensive examination demonstrating competence in the subject area for which the pupil would otherwise be denied credit.

➥ A pupil who does not satisfy the requirements of paragraph (a) or (b) will be denied credit, and the principal of the school shall provide notice of the intended denial pursuant to subsection 3.

7. A school shall inform the parents or legal guardian of each pupil who is enrolled in the school that the parents or legal guardian and the pupil are required to comply with the provisions governing the attendance and truancy of pupils set forth in NRS 392.040 to 392.160, inclusive, and any other rules concerning attendance and truancy adopted by the board of trustees of the school district.

Sec. 7. NRS 62E.430 is hereby amended to read as follows:

62E.430 1. If a child is adjudicated to be in need of supervision because the child is a habitual truant, the juvenile court shall:

(a) The first time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than $100 and the administrative assessment required by NRS 62E.270 or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment; or

(II) The child to perform not less than 8 hours but not more than 16 hours of community service; and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 30 days but not more than 6 months. If the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 30 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

(b) The second or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant:

(1) Order:

(I) The child to pay a fine of not more than $200 and the administrative assessment required by NRS 62E.270 or if the parent or guardian of the child knowingly induced the child to be a habitual truant, order the parent or guardian to pay the fine and the administrative assessment;

(II) The child to perform not more than 10 hours of community service; or

(III) Compliance with the requirements set forth in both sub-subparagraphs (I) and (II); and

(2) If the child is 14 years of age or older, order the suspension of the driver's license of the child for at least 60 days but not more than 1 year. If

the child does not possess a driver's license, the juvenile court shall prohibit the child from applying for a driver's license for 60 days:

(I) Immediately following the date of the order if the child is eligible to apply for a driver's license; or

(II) After the date the child becomes eligible to apply for a driver's license if the child is not eligible to apply for a driver's license.

2. The juvenile court may suspend the payment of a fine ordered pursuant to paragraph (a) of subsection 1 if the child attends school for 60 consecutive school days, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, after the imposition of the fine, or has a valid excuse acceptable to the child's teacher or the principal for any absence from school within that period.

3. The juvenile court may suspend the payment of a fine ordered pursuant to this section if the parent or guardian of a child is ordered to pay a fine by another court of competent jurisdiction in a case relating to or arising out of the same circumstances that caused the juvenile court to adjudicate the child in need of supervision.

4. The community service ordered pursuant to this section must be performed at the child's school of attendance, if practicable.

5. If a child is adjudicated in need of supervision because the child is a habitual truant, the juvenile court may, the first time, the second time or any subsequent time the child is adjudicated to be in need of supervision because the child is a habitual truant, order the parent or legal guardian of the child to attend conferences with the child's teacher and appropriate school administrators to address the status of the child as a habitual truant and to develop a plan to ensure that the child attends school.

Sec. 8. Chapter 609 of NRS is hereby amended by adding thereto a new section to read as follows:

If a county requires the issuance of work permits and a work permit is issued to a child between the ages of 16 and 18 years, the parent or legal guardian of the child may indicate on the work permit the maximum number of hours that his or her child may work and specify the time periods in which that work may occur during the week and on the weekend.

Sec. 9. NRS 609.240 is hereby amended to read as follows:

609.240 1. No child under the age of 16 years may be employed, permitted or suffered to work at any gainful occupation, other than domestic service, employment as a performer in the production of a motion picture or work on a farm, more than ~~[~~48~~]~~ ***:***

(a) Twenty hours in any 1 week ~~[~~,~~]~~ ***when school is in session;***

(b) Forty-eight hours in any 1 week when school is not in session; or ~~[~~more than 8~~]~~

(c) Eight hours in any 1 day.

2. The presence of a child in any establishment during working hours is prima facie evidence of employment of the child therein.

Sec. 9.5. 1. On or before December 31, 2012, the board of trustees of each school district shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a report on the standard high school diplomas awarded to pupils pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act.

2. The report submitted pursuant to subsection 1 must include:

(a) The number of pupils who were awarded a standard high school diploma pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act;

(b) An assessment of the effectiveness of the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act, with enabling pupils to receive a standard high school diploma who would not otherwise have been eligible for such a diploma; and

(c) A determination as to whether the awarding of a standard high school diploma pursuant to the criteria prescribed by subsection 4 of NRS 389.805, as amended by section 5 of this act, should continue to be a means by which pupils may receive a standard high school diploma.

Sec. 10. ~~[This act becomes effective on July 1, 2011.]~~

1. The State Board of Education shall prescribe the cumulative score on the high school proficiency examination necessary to implement the provisions of paragraph (e) of subsection 4 of NRS 389.805, as amended by section 5 of this act, as soon as practicable after the effective date of section 5 of this act.

2. The State Board of Education is exempt from the provisions of chapter 233B of NRS for the purposes of prescribing the score pursuant to subsection 1 for the pupils currently enrolled in grade 12 but shall adopt a permanent regulation prescribing the score for future school years on or before January 1, 2012, pursuant to chapter 233B of NRS.

Sec. 11. **1. This section and section 5 of this act become effective upon passage and approval.**

2. Sections 1 to 4, inclusive, and 6 to 10, inclusive, of this act become effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senators Hardy and Denis.

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

SENATOR HARDY:

The intent of this amendment is to allow any pupils currently enrolled in grade 12 to be eligible to receive a standard high school diploma if they meet the criteria set forth in Section 5 of the bill which includes obtaining a cumulative score on the high school proficiency examination prescribed by the State Board of Education. This has been vetted by both Chairs of the Education Committees.

Section 10 allows for the State Board of Education to be exempted from making the regulations necessary for it be applied to grade 12, and puts that exemption off so that the

State Board of Education can go ahead and make the appropriate regulations effective January 1, 2012.

SENATOR DENIS:
I have looked at the amendment and it makes sense. It will help students today, rather than having to wait until next year.

Amendment adopted.
Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 472.
Bill read third time.
Roll call on Assembly Bill No. 472:
YEAS—21.
NAYS—None.

Assembly Bill No. 472 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 480.
Bill read third time.
Roll call on Assembly Bill No. 480:
YEAS—21.
NAYS—None.

Assembly Bill No. 480 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 481.
Bill read third time.
Roll call on Assembly Bill No. 481:
YEAS—21.
NAYS—None.

Assembly Bill No. 481 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 498.
Bill read third time.
Remarks by Senators Cegavske and Denis.
Senator Cegavske requested that the following remarks be entered in the Journal.

SENATOR CEGAVSKE:
Thank you, Mr. President. I want to remind the body that the amendment on this bill extends it instead of completely deleting it.
I would be remiss if I did not comment on the norm-reference tests. This bill deletes the only testing we do that goes to the local level. I have concerns about getting rid of this permanently. I think it is important that the schools, the principals and the parents get testing results as soon as

they can. This is one test that does provide that. Because of funding, it is suspended by extension for two years.

I have concern with the criterion-reference test. Unfortunately, that test is one that the State Board of Education is in charge of. They have watered down the criteria. Our students are passing at a 53 percent rate.

I have concerns about the testing that we are doing in the State of Nevada. If Senator Raggio were here, he would tell you this is one that he never wanted to get rid of. That is why we suspended it two years ago. I ask that we do that again. I know that when the new testing comes in, when the standards are changed, the National Common Core Standards say the testing will be better, and that we will have more accountability so the proof will be seen.

Several of us will not be here in the years to come. Know that this norm-referencing test is one of the few tests that get down to the local level. I hate to see it go, but we will wait and see what replaces it.

SENATOR DENIS:

I understand the need to test our children. Over the past few years, we have been looking for ways to reduce the number of tests. *No Child Left Behind* was referred to as, "no child left untested." By moving this out two more years, it will give us an opportunity to see what other instruments we will have to put in place with all of the databases and other tools to help us assess our students.

It is okay to move it forward. Eventually we will have a better tool. Moving it forward will allow us to discontinue it for now and we will save the money from the tests. We will look at it again in two years.

Roll call on Assembly Bill No. 498:

YEAS—21.

NAYS—None.

Assembly Bill No. 498 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 533.

Bill read third time.

Roll call on Assembly Bill No. 533:

YEAS—21.

NAYS—None.

Assembly Bill No. 533 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 534.

Bill read third time.

Roll call on Assembly Bill No. 534:

YEAS—21.

NAYS—None.

Assembly Bill No. 534 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 535.

Bill read third time.

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

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

Assembly Bill No. 544.
Bill read third time.
Roll call on Assembly Bill No. 544:
YEAS—20.
NAYS—Rhoads.

Assembly Bill No. 544 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 564.
Bill read third time.
Roll call on Assembly Bill No. 564:
YEAS—21.
NAYS—None.

Assembly Bill No. 564 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 1.
Resolution read third time.
Roll call on Assembly Joint Resolution No. 1:
YEAS—21.
NAYS—None.

Assembly Joint Resolution No. 1 having received a constitutional majority, Mr. President declared it passed.
Resolution ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 11—Amending the Joint Standing Rules of the Senate and Assembly for the 76th Session of the Nevada Legislature to extend the second House passage deadline from May 27, 2011, until May 30, 2011.

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, THE SENATE CONCURRING, That Rule No. 14.3 of the Joint Standing Rules of the Senate and Assembly as adopted by the 76th Session of the Nevada Legislature is hereby amended to read as follows:

Rule No. 14.3. Final Dates for Action by Standing Committees and Houses.

Except as otherwise provided in Joint Standing Rules Nos. 14.4, 14.5 and 14.6:

1. The final standing committee to which a bill or joint resolution is referred in its House of origin may only take action on the bill or joint resolution on or before the 68th calendar day of the legislative session. A bill may be re-referred after that date only to the Committee on Finance

or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

2. Final action on a bill or joint resolution may only be taken by the House of origin on or before the 79th calendar day of the Legislative Session.

3. The final standing committee to which a bill or joint resolution is referred in the second House may only take action on the bill or joint resolution on or before the 103rd calendar day of the Legislative Session. A bill may be re-referred after that date only to the Committee on Finance or the Committee on Ways and Means and only if the bill is exempt pursuant to subsection 1 of Joint Standing Rule No. 14.6.

4. Final action on a bill or joint resolution may only be taken by the second House on or before the ~~[110th]~~ ***113th*** calendar day of the Legislative Session.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

The purpose of the resolution is to modify our Joint Standing Rules. It asks to allow for policy bills, which would have to be passed by the second house on Friday, until Monday, May 30, 2011 for passage, to give our staff time to make any amendments or modifications to those bills. This is so that we can prioritize the budget process, this week's priority, and to delay any of the policy bills until Monday. Policy bills already out with amendments ready will be brought directly to the Floor and will be considered under Second Reading and Third Reading as we normally do. If, as committees complete work, those amendments are not ready by Friday, this will extend that time to Monday. This will give us ample time to consider those measures. This is a resolution agreed to by leadership in both houses.

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

Senate in recess at 11:22 a.m.

SENATE IN SESSION

At 11:26 a.m.

President Krolicki presiding.

Quorum present.

Senator Horsford moved that Assembly Concurrent Resolution No. 11 be taken from the Resolution File and placed on the Resolution File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Concurrent Resolution No. 12.

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 and teacher from the Truckee Meadows Community College High School: Rachel Bonderson, Danessa Duckett, Blanca Fascio, Amelia Gunn, Olivia Hernandez, Vanessa Lan, Alicia lee, Dalton Malone, Savannah Mascarelli, Jared Michael, Joshua Moore, Sera Ozbek, Zachary Reinitz, Amanda Rieger, Justin Schilling, Erin Smith, Joseph Stanton, Maxwell Thom,

Brooke Whisenant, Steven Aguilar, Seini Aonga, Gabriel Busch, Julian Byrd, Markus Chapman, Dominick Peter Crisostomo, Kyle Fenner, Meghan Grassi, Bruce Kroboth, Shay Malloy, Tyler Nott, Morgan Perry, Mark Peterson, Devonnie Pickrell, Kyle Polzin, Erica Rose, Amanda Mae Sagun, Dylan Schindler, Mason Walton, Isabel Youngs and teacher: Carlos Hatfield.

Senator Horsford moved that the Senate adjourn until Wednesday, May 25, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 11:28 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND EIGHTH DAY

CARSON CITY (Wednesday), May 25, 2011

Senate called to order at 11:16 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God and Father, we come to You this morning seeking Your guidance to work for the good of the citizens of Nevada. As we met yesterday to discuss what directions to take, may we look closely at all decisions we make because they will have a lasting influence on the State's success in this fragile world.

Guide us today, especially as we might take positions that are not in agreement with those seated in this Chamber and the Assembly.

We also come to You again today asking for Your help and assistance for the brave people of the Midwest in our country who are reeling after more tornados in that area yesterday. Give comfort to those who have experienced great loss of any kind. May we, as the citizens of Nevada, rise up to give assistance that we truly be united together as one people in this United States.

All these things we bring to You trusting in Your love, grace and mercy, in the Name of Your Son, Jesus Christ.

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 Assembly Bills Nos. 122, 283, 289, 308, 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 Assembly Bills Nos. 230, 393, 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 Senate Bill No. 499, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were re-referred Senate Bills Nos. 439, 452, 477, 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 Assembly Bills Nos. 238, 265, 545, 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 Assembly Bill No. 160, 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 was referred Assembly Bill No. 291, 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 Assembly Bill No. 132, 179, 301, 501, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Revenue, to which was referred Senate Joint Resolution No. 15, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHEILA LESLIE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 23, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 6, 10, 12, 13, 15, 17, 21, 25, 33, 38, 45, 58, 63, 66, 67, 79, 109, 117, 137, 157, 167, 196, 209, 328, 331, 353, 368, 387, 390, 441, 495; Senate Joint Resolution No. 4.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 245, Amendment No. 637; Senate Bill No. 264, Amendment No. 636, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 11.

Senator Horsford moved the adoption of the resolution.

Remarks by Senators Horsford, McGinness, Settelmeyer; Secretary Byerman and President Krolicki.

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

SENATOR HORSFORD:

This rule change will allow for second house passage on Monday instead of this Friday to allow our staff the weekend to complete the amendments on any policy related bills. It will allow us to focus on the remaining portion of this week on the budget.

SENATOR MCGINNESS:
I appreciate the Majority Leader's explanation. I spoke to legal counsel and because of the delay yesterday and since we did not meet that perhaps we did not need this resolution. Can you explain?

SENATOR HORSFORD:
No, this was something that was requested by staff to help us with the process. We have a lot of bills and a lot of amendments that are still requested. In order to focus on the budget provisions, it is requested that we adopt this rule change to our Joint Standing Rules.

SENATOR SETTELMEYER:
Thank you, Mr. President. I have a parliamentary inquiry. There has been some discussion that at first, the Secretary of the Senate had indicated that this was a two-thirds vote. I agreed with that under our Rule No. 91, which says under suspension of the rules, "No standing rule or order of the Senate shall be rescinded or changed without a vote of two-thirds of the body." Is this now all of a sudden a majority vote, if it is how?

SENATOR HORSFORD:
Are you referring to the Senate Rules or to the Joint Standing Rules?

SENATOR SETTELMEYER:
I was concerned as we are talking about changing a rule that affects the Senate. I assumed that would be under the Senate Standing Rules.

SENATOR HORSFORD:
It is the Joint Standing Rules that are separate from the Senate Rules. This is a Joint Standing Rule change that requires a majority vote of both houses.

SENATOR SETTELMEYER:
So, under parliamentary procedure it is majority. Thank you.

SECRETARY BYERMAN:
I communicated yesterday, as Parliamentarian for the Senate, to both the Senate Majority and Minority Leaders that Rule No. 91 does address an amendment to the Senate Standing Rules. The Senate rules do require a two-thirds vote for that type of a change. But for an amendment to the Joint Standing Rules, we do not address the vote requirements in our rules. Therefore, Mason's Manual, our parliamentary authority, applies. Mason's Manual clearly indicates that if there is not a higher vote requirement indicated in our rules, then as in this case of the Joint Standing Rules, a majority vote would be required.

MR. PRESIDENT:
I do believe that the Joint Rules do not cover voting procedures because each house shall cover its own procedures. We determine how they will conduct their business. While I understand this is for Joint Rules, we do have procedures. However, we are not voting directly to suspend the rules of this Senate. We are passing a resolution. I believe a simple majority is in order. I appreciate Senator Settelmeyer's comments that this is a circuitous route to that end.

Motion carried on a division of the house.

Resolution adopted.

Resolution ordered transmitted to the Assembly.

Senator Wiener moved that Assembly Bills Nos. 483, 566, be taken from their positions on the General File and placed at the top of the General File and to proceed next to the General File.

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 11:33 a.m.

SENATE IN SESSION

At 11:38 a.m.
President Krolicki presiding.
Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 483.
Bill read third time.
Roll call on Assembly Bill No. 483:
YEAS—21.
NAYS—None.

Assembly Bill No. 483 having received a constitutional majority, Mr. President declared it passed.

Senator Horsford moved that all rules be suspended and that Assembly Bill No. 483 be immediately transmitted to the Assembly.
Motion carried unanimously.

Assembly Bill No. 566.
Bill read third time.
Remarks by Senators Parks, Settelmeyer, Denis and Cegavske.
Senator Parks requested that the following remarks be entered in the Journal.

SENATOR PARKS:

Assembly Bill No. 566 revises the districts for election of members of the Nevada Senate and Assembly and of representatives in the United States House of Representatives.

The measure retains a 21-member Senate. The ideal population in each Senate district is 128,598. The overall range of population deviation is 0.23 percent. The plan eliminates the multi-member Senate districts in Clark County, and includes 15 Senate districts wholly within Clark County and three districts wholly within Washoe County. The remaining three districts contain parts of Clark and Washoe Counties, and the rural counties.

The measure retains a 42-member Assembly. The ideal population in each Assembly district is 64,299. The overall range of population deviation is 0.49 percent. No Assembly districts are nested within Senate districts. The plan includes 30 Assembly districts wholly within Clark County and six districts wholly within Washoe County. The remaining six districts contain parts of Clark and Washoe Counties, and the rural counties.

Based on the 2010 United States Census, Nevada has been apportioned a fourth Congressional district. The ideal population in each district is 675,138. The overall range of population deviation is 0.00 percent. Two Congressional districts are wholly contained in Clark County. A third district contains a portion of Clark County and all or parts of rural counties. A fourth district contains all of Washoe County and all or parts of rural counties.

The bill provides for the use of the term "reelect" in the 2012 General Election under certain circumstances. The measure also includes a severability clause.

The bill contains various effective dates for the purposes of filing for office and for nominating and electing members of the Nevada Legislature and the U.S. House of Representatives and for other purposes.

SENATOR SETTELMEYER:

I rise in opposition to this bill. I am concerned with how this bill complies with the Voting Rights Act. The Hispanics are currently 26 percent of the population of our State. They currently hold two seats now. That should be 9.5 percent of the seats in this Chamber. The Hispanics represented 46 percent of the population growth in the State of Nevada since the 2000 census. Under this plan, I do not see any opportunities for the minority opportunity districts to advance. I respectfully rise in opposition. I am also concerned about the renumbering of the districts. We renumbered a lot of districts that we did need to. Individuals could have kept their own numbers, therefore there would not have had to be any change of law. The change of law that was mentioned within the bill still leaves six or seven Senators not being able to use the term "reelect."

SENATOR DENIS:

Once again, I would like to thank the Republican caucus for trying to look out for the Hispanic community; however, in this particular map it does give a better opportunity for the Hispanic community. I have talked with many Hispanic community organizations in Nevada. We feel this will give us a better opportunity as we move forward to have Hispanic representation. I feel these maps have taken that into consideration.

SENATOR CEGAVSKE:

I also rise in opposition of Assembly Bill No. 566. When we released the data for the Republican maps, it was our impression that we would be able to have some good discussions about both sets of maps and come to some mutual agreement. Unfortunately, there was a meeting set up for Monday. It was cancelled. A meeting yesterday was cancelled. I rise in opposition that there was no debate. There was no looking at both proposals trying to come to common ground. This is being pushed through without the considerations of both parties.

Roll call on Assembly Bill No. 566:

YEAS—11.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 566 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 498.

Bill read third time.

Roll call on Senate Bill No. 498:

YEAS—21.

NAYS—None.

Senate Bill No. 498 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 20.

Bill read third time.

Roll call on Assembly Bill No. 20:

YEAS—21.

NAYS—None.

Assembly Bill No. 20 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 77.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 772.

"SUMMARY—Makes various changes relating to mortgage lending and related professionals. (BDR 54-481)"

"AN ACT relating to mortgage lending; revising provisions relating to the licensing of escrow agents and escrow agencies; revising provisions relating to a surety bond or substitute security posted by an escrow agency; requiring the Commissioner of Mortgage Lending to establish certain fees; revising provisions relating to disciplinary action for an escrow agent or escrow agency; establishing provisions governing the arranging or servicing of loans in which an investor has an interest; requiring a mortgage broker who services a loan to make certain reports; exempting certain natural persons and nonprofit organizations from statutes governing mortgage brokers and mortgage agents; revising provisions relating to a surety bond posted by a mortgage broker; requiring a mortgage broker to review an impound trust account annually; revising provisions relating to the renewal of a license as a mortgage banker; enacting requirements for mortgage brokers and for mortgage bankers to make the statutory schemes governing the two professions more similar; allowing disclosure of certain confidential information relating to an investigation; enacting provisions for the enforcement of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; requiring the licensing of a person who performs the services of a construction control; requiring the licensing of a provider of certain additional services as a provider of covered services; revising provisions relating to compensation for a provider of covered services; increasing certain administrative fines; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the conduct of escrow agents and escrow agencies and requires the Commissioner of Mortgage Lending to supervise and control the conduct of escrow agents and escrow agencies within this State. (Chapter 645A of NRS) Section 3.5 of this bill includes the performance of the services of a construction control within the definition of escrow. Sections 4 and 5 of this bill revise provisions relating to the licensing of escrow agents and escrow agencies. Section 6 of this bill revises provisions relating to the surety bond posted by an escrow agency. Sections 8 and 9 of this bill revise provisions relating to the fees and costs relating to escrow agents and escrow agencies that the Commissioner is authorized to collect. Sections 2 and 10-12 of this bill revise provisions relating to discipline for activities relating to escrow agents and escrow agencies.

Existing law governs the conduct of mortgage agents and mortgage brokers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage agents and mortgage brokers within this

State. (Chapter 645B of NRS) Sections 21, 22, 24, 25, 34 and 37 of this bill establish provisions governing the arranging or servicing of loans by a mortgage broker in which an investor has an interest. Section 44 of this bill revises the exemptions from the statutes governing mortgage agents and mortgage brokers. Sections 47 and 48 of this bill revise provisions relating to a surety bond posted by a mortgage broker. Section 53 of this bill authorizes the Commissioner to disclose certain confidential information relating to an investigation. Section 56 of this bill requires a mortgage broker to review an impound trust account annually.

Existing law governs the conduct of mortgage bankers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage bankers within this State. (Chapter 645E of NRS) Section 72 of this bill revises the exemptions from the statutes governing mortgage bankers. Section 81 of this bill authorizes the Commissioner to disclose certain confidential information relating to an investigation.

Existing law requires the Commissioner to adopt regulations concerning the licensing of persons who provide certain covered services. (NRS 645F.390) Section 96 of this bill includes additional services within the definition of "covered services." Section 101 of this bill revises provisions governing the compensation a provider of covered services may receive. ~~[Existing law exempts an attorney at law from the requirements concerning the licensing of persons who provide covered services for compensation, but section 98 of this bill specifically provides that an attorney at law is subject to the provisions of section 88.5 of this bill, which prohibit a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.]~~

Sections 42, 45, 46, 50-55, 59, 60, 62-64, 67, 69, 73, 76, 79-82 and 99 of this bill enact or revise provisions to implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Section 87 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 87. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 88 ~~[, 88.5]~~ and 90 of this act.

Section 88.5 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 88.5. **(Deleted by amendment.)**

Section 95 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 95. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and*** ~~*[sections]*~~ ***section 88*** ~~*[and 88.5]*~~ ***of this act,*** unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, ***and section 88 of this act*** have the meanings ascribed to them in those sections.

Section 98 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 98. NRS 645F.380 is hereby amended to read as follows:

645F.380 The

~~*[1. Except as otherwise provided in subsection 2, the]*~~ provisions of NRS 645F.300 to 645F.450, inclusive, ***and*** ~~*[sections]*~~ ***section 88*** ~~*[and 88.5]*~~ ***of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. ~~*[(a)]*~~ An attorney at law rendering services in the performance of his or her duties as an attorney at law, unless the attorney at law is rendering those services in the course and scope of his or her employment by or other affiliation with a ~~[mortgage broker or mortgage agent;]~~ ***person who is licensed or required to be licensed pursuant to NRS 645F.390;***

2. ~~*[(b)]*~~ A provider of debt-management services registered pursuant to chapter 676A of NRS while providing debt-management services pursuant to chapter 676A of NRS;

3. ~~*[(c)]*~~ A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank ~~[;]~~ ***System;***

4. ~~*[(d)]*~~ A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

5. ~~*[(e)]*~~ Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

6. ~~*[(f)]*~~ A person, other than a person who is licensed pursuant to NRS 645F.390, who is licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the authority of the license;

7. ~~*[(g)]*~~ A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

8. ~~*[(h)]*~~ A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

~~*[2. The provisions of section 88.5 of this act apply to an attorney at law who renders services in the performance of his or her duties as an attorney at law regardless of whether the attorney at law renders those services in the course and scope of his or her employment by or other affiliation with a*~~

~~*person who is licensed or required to be licensed pursuant to NRS 645F.390.*~~]

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. 772 to Assembly Bill No. 77 will conform Assembly Bill No. 77 to Assembly Bill No. 308, which will come to the Floor for Report of Committees today.

The effect of the amendment is that employees of attorneys who perform work as foreclosure consultants and do mortgage modifications will have to be licensed to perform these services; such employees will not be exempt from the licensure requirements.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 78.

Bill read third time.

Roll call on Assembly Bill No. 78:

YEAS—9.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Horsford, Kieckhefer, Manendo, McGinness, Rhoads, Roberson, Settelmeyer—12.

Assembly Bill No. 78 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 260.

Remarks by Senator Parks.

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

Assembly Bill No. 260 requires newly elected Legislators to attend a mandatory training program prior to taking part in their first legislative session. The training program will be designed by the majority and minority leadership of both houses of the Legislature and will be conducted between the general election and the start of the next legislative session. The training program cannot exceed 10 days, and the dates upon which it will be held must be posted on the Legislature's website no later than 90 days before training commences.

A Legislator who fails to attend a mandatory training session is subject to a monetary penalty equal to one day's pay for each mandatory session they fail to attend. The Assembly or Senate, as applicable, may affirm, reduce, or dismiss the penalty upon appeal by the Legislator.

Senator Horsford moved that Assembly Bill No. 260 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 282.

Bill read third time.

The following amendment was proposed by Senator Halseth:

Amendment No. 780.

"SUMMARY—Revises various provisions concerning firearms. (BDR 15-962)"

"AN ACT relating to firearms; revising provisions concerning permits to carry concealed semiautomatic firearms; revising provisions governing the renewal of a permit to carry a concealed firearm; revising provisions

concerning the confidentiality of information relating to permits to carry concealed firearms; revising provisions governing the possession of firearms in state parks; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person who wishes to carry a concealed firearm must obtain a permit to carry the firearm. (NRS 202.3657) As part of the application process to obtain a permit, an applicant must undergo an investigation by a sheriff to determine if the applicant is eligible for a permit. Such an investigation must include a report from the Federal Bureau of Investigation. (NRS 202.366) **Section 2** of this bill additionally requires an applicant for the renewal of a permit to undergo an investigation by the sheriff. **Section 2** also specifies that an investigation conducted by the sheriff for an initial application or a renewal application must include a report from the National Instant Criminal Background Check System. ~~[Section 4 of this bill revises the fee for the renewal of a permit from $25 to the amount of the actual cost to obtain the reports required as part of the investigation by the sheriff.]~~

Existing law also provides that a qualified applicant for a permit to carry a concealed firearm may obtain a permit for revolvers, for one or more specific semiautomatic firearms, or for revolvers and one or more specific semiautomatic firearms. (NRS 202.3657) If the application for a permit involves semiautomatic firearms, the applicant must state the make, model and caliber of each semiautomatic firearm for which the applicant is seeking to obtain a permit. (NRS 202.366) Additionally, to receive and renew a permit involving semiautomatic firearms, an applicant or permittee must demonstrate competence with each semiautomatic firearm to which the application pertains. (NRS 202.3657, 202.3677) **Section 1** of this bill provides that: (1) a qualified applicant for a permit to carry a concealed firearm may obtain one permit for all semiautomatic firearms that the applicant seeks to carry instead of being required to obtain a permit for each specific semiautomatic firearm; and (2) an applicant or permittee may demonstrate competence with semiautomatic firearms in general rather than with each specific semiautomatic firearm.

Existing law further provides that information in an application for a permit to carry a concealed firearm and all information relating to the investigation of an applicant for such a permit is confidential. (NRS 202.3662) However, the Nevada Supreme Court recently held in *Reno Newspapers, Inc. v. Haley*, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010), that the identity of a holder of a permit to carry a concealed firearm and any postpermit records of investigation, suspension or revocation are not confidential and are therefore public records. **Section 3** of this bill provides that the identity and any information acquired during the investigation of a holder of a permit to carry a concealed firearm are confidential, as are any records regarding the suspension, restoration or revocation of such a permit.

Existing law also allows the Administrator of the Division of State Parks of the State Department of Conservation and Natural Resources to adopt regulations, including, without limitation, prohibitions and restrictions on activities within parks or recreational facilities within the jurisdiction of the Division. (NRS 407.0475) Existing administrative regulations allow a person to carry a concealed firearm in a state park if the person complies with existing laws concerning the carrying of concealed weapons but prohibit a person from discharging a firearm in a state park. (NAC 407.105) Any person who violates a regulation adopted by the Administrator is guilty of a misdemeanor. (NRS 407.0475) While existing law prohibits the discharge of a firearm under various circumstances, it also provides certain defenses for violating such provisions by allowing a person to make sufficient resistance to prevent the occurrence of certain offenses. (NRS 202.280-202.290, 193.230-193.250)

Section 5 of this bill prohibits the Administrator from adopting any regulation concerning the possession of firearms in state parks or recreational facilities which is more restrictive than the laws of this State relating to: (1) the possession of firearms; and (2) engaging in lawful resistance to prevent an offense against a person or property. **Section 5** also voids any regulation which conflicts with such laws.

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

Section 1. NRS 202.3657 is hereby amended to read as follows:

202.3657 1. Any person who is a resident of this State may apply to the sheriff of the county in which he or she resides for a permit on a form prescribed by regulation of the Department. Any person who is not a resident of this State may apply to the sheriff of any county in this State for a permit on a form prescribed by regulation of the Department. Application forms for permits must be furnished by the sheriff of each county upon request.

2. Except as otherwise provided in this section, the sheriff shall issue a permit for revolvers, ~~[one or more specific]~~ ***for*** semiautomatic firearms, or for revolvers and ~~[one or more specific]~~ semiautomatic firearms, as applicable, to any person who is qualified to possess the firearm or firearms to which the application pertains under state and federal law, who submits an application in accordance with the provisions of this section and who:

(a) Is 21 years of age or older;

(b) Is not prohibited from possessing a firearm pursuant to NRS 202.360; and

(c) Demonstrates competence with revolvers, ~~[each specific]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or revolvers and ~~[each such]~~ semiautomatic ~~[firearm,]~~ ***firearms,*** as applicable, by presenting a certificate or other documentation to the sheriff which shows that the applicant:

(1) Successfully completed a course in firearm safety approved by a sheriff in this State; or

(2) Successfully completed a course in firearm safety offered by a federal, state or local law enforcement agency, community college, university or national organization that certifies instructors in firearm safety.

➥ Such a course must include instruction in the use of revolvers, ~~[each]~~ semiautomatic ~~[firearm to which the application pertains,]~~ ***firearms,*** or revolvers and ~~[each such]~~ semiautomatic ~~[firearm]~~ ***firearms*** and in the laws of this State relating to the use of a firearm. A sheriff may not approve a course in firearm safety pursuant to subparagraph (1) unless the sheriff determines that the course meets any standards that are established by the Nevada Sheriffs' and Chiefs' Association or, if the Nevada Sheriffs' and Chiefs' Association ceases to exist, its legal successor.

3. The sheriff shall deny an application or revoke a permit if the sheriff determines that the applicant or permittee:

(a) Has an outstanding warrant for his or her arrest.

(b) Has been judicially declared incompetent or insane.

(c) Has been voluntarily or involuntarily admitted to a mental health facility during the immediately preceding 5 years.

(d) Has habitually used intoxicating liquor or a controlled substance to the extent that his or her normal faculties are impaired. For the purposes of this paragraph, it is presumed that a person has so used intoxicating liquor or a controlled substance if, during the immediately preceding 5 years, the person has been:

(1) Convicted of violating the provisions of NRS 484C.110; or

(2) Committed for treatment pursuant to NRS 458.290 to 458.350, inclusive.

(e) Has been convicted of a crime involving the use or threatened use of force or violence punishable as a misdemeanor under the laws of this or any other state, or a territory or possession of the United States at any time during the immediately preceding 3 years.

(f) Has been convicted of a felony in this State or under the laws of any state, territory or possession of the United States.

(g) Has been convicted of a crime involving domestic violence or stalking, or is currently subject to a restraining order, injunction or other order for protection against domestic violence.

(h) Is currently on parole or probation from a conviction obtained in this State or in any other state or territory or possession of the United States.

(i) Has, within the immediately preceding 5 years, been subject to any requirements imposed by a court of this State or of any other state or territory or possession of the United States, as a condition to the court's:

(1) Withholding of the entry of judgment for a conviction of a felony; or

(2) Suspension of sentence for the conviction of a felony.

(j) Has made a false statement on any application for a permit or for the renewal of a permit.

4. The sheriff may deny an application or revoke a permit if the sheriff receives a sworn affidavit stating articulable facts based upon personal

knowledge from any natural person who is 18 years of age or older that the applicant or permittee has or may have committed an offense or engaged in any other activity specified in subsection 3 which would preclude the issuance of a permit to the applicant or require the revocation of a permit pursuant to this section.

5. If the sheriff receives notification submitted by a court or law enforcement agency of this or any other state, the United States or a territory or possession of the United States that a permittee or an applicant for a permit has been charged with a crime involving the use or threatened use of force or violence, the conviction for which would require the revocation of a permit or preclude the issuance of a permit to the applicant pursuant to this section, the sheriff shall suspend the person's permit or the processing of the person's application until the final disposition of the charges against the person. If a permittee is acquitted of the charges, or if the charges are dropped, the sheriff shall restore his or her permit without imposing a fee.

6. An application submitted pursuant to this section must be completed and signed under oath by the applicant. The applicant's signature must be witnessed by an employee of the sheriff or notarized by a notary public. The application must include:

(a) The name, address, place and date of birth, social security number, occupation and employer of the applicant and any other names used by the applicant;

(b) A complete set of the applicant's fingerprints taken by the sheriff or his or her agent;

(c) A front-view colored photograph of the applicant taken by the sheriff or his or her agent;

(d) If the applicant is a resident of this State, the driver's license number or identification card number of the applicant issued by the Department of Motor Vehicles;

(e) If the applicant is not a resident of this State, the driver's license number or identification card number of the applicant issued by another state or jurisdiction;

(f) ~~[The make, model and caliber of each semiautomatic firearm to which the application pertains, if any;~~

~~(g)]~~ ***Whether the application pertains to semiautomatic firearms;***

(g) Whether the application pertains to revolvers;

(h) A nonrefundable fee in the amount necessary ~~*[of the actual cost]*~~ to obtain the ~~[report]~~ ***reports*** required pursuant to subsection 1 of NRS 202.366; and

(i) A nonrefundable fee set by the sheriff not to exceed $60.

Sec. 2. NRS 202.366 is hereby amended to read as follows:

202.366 1. Upon receipt by a sheriff of an application for a permit, ***including an application for the renewal of a permit pursuant to NRS 202.3677,*** the sheriff shall conduct an investigation of the applicant to determine if the applicant is eligible for a permit. In conducting the

investigation, the sheriff shall forward a complete set of the applicant's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report concerning the criminal history of the applicant. ***The investigation also must include a report from the National Instant Criminal Background Check System.*** The sheriff shall issue a permit to the applicant unless the applicant is not qualified to possess a handgun pursuant to state or federal law or is not otherwise qualified to obtain a permit pursuant to NRS 202.3653 to 202.369, inclusive, or the regulations adopted pursuant thereto.

2. To assist the sheriff in conducting the investigation, any local law enforcement agency, including the sheriff of any county, may voluntarily submit to the sheriff a report or other information concerning the criminal history of an applicant.

3. Within 120 days after a complete application for a permit is submitted, the sheriff to whom the application is submitted shall grant or deny the application. If the application is denied, the sheriff shall send the applicant written notification setting forth the reasons for the denial. If the application is granted, the sheriff shall provide the applicant with a permit containing a colored photograph of the applicant and containing such other information as may be prescribed by the Department. The permit must be in substantially the following form:

NEVADA CONCEALED FIREARM PERMIT

County.....	Permit Number .....
Expires.....	Date of Birth .....
Height.....	Weight .....
Name	Address.....
City.....	Zip .....

Photograph

Signature .....
Issued by.....
Date of Issue.....

~~[Make, model and caliber of each authorized semiautomatic firearm, if any .....]~~

Semiautomatic firearms authorized..... Yes.....No

Revolvers authorized..... Yes.....No

4. Unless suspended or revoked by the sheriff who issued the permit, a permit expires 5 years after the date on which it is issued.

5. As used in this section, "National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.

Sec. 3. NRS 202.3662 is hereby amended to read as follows:

202.3662 1. Except as otherwise provided in this section and NRS 202.3665 and 239.0115:

(a) An application for a permit, and all information contained within that application; ~~[and]~~

(b) All information provided to a sheriff or obtained by a sheriff in the course of the investigation of an applicant ~~[,]~~ ***or permittee****;*

(c) The identity of the permittee; and

(d) Any records regarding the suspension, restoration or revocation of a permit,

➥ are confidential.

2. Any records regarding an applicant or permittee may be released to a law enforcement agency for the purpose of conducting an investigation or prosecution.

3. Statistical abstracts of data compiled by a sheriff regarding permits applied for or issued pursuant to NRS 202.3653 to 202.369, inclusive, including, but not limited to, the number of applications received and permits issued, may be released to any person.

Sec. 4. NRS 202.3677 is hereby amended to read as follows:

202.3677 1. If a permittee wishes to renew his or her permit, the permittee must ~~[~~~~complete~~~~]~~ ***:***

(a) Complete and submit to the sheriff who issued the permit an application for renewal of the permit ~~[.]~~ ***; and***

(b) Undergo an investigation by the sheriff pursuant to NRS 202.366 to determine if the permittee is eligible for a permit.

2. An application for the renewal of a permit must:

(a) Be completed and signed under oath by the applicant;

(b) Contain a statement that the applicant is eligible to receive a permit pursuant to NRS 202.3657; and

(c) Be accompanied by a nonrefundable fee of $25. ~~*[in the amount of the actual cost to obtain the reports required pursuant to subsection 1 of NRS 202.366.]*~~

➥ If a permittee fails to renew his or her permit on or before the date of expiration of the permit, the application for renewal must include an additional nonrefundable late fee of $15.

3. No permit may be renewed pursuant to this section unless the permittee has demonstrated continued competence with revolvers, with ~~[~~~~each~~~~]~~ semiautomatic ~~[~~~~firearm to which the application pertains,~~~~]~~ ***firearms,*** or with revolvers and ~~[~~~~each such~~~~]~~ semiautomatic ~~[~~~~firearm,~~~~]~~ ***firearms,*** as applicable, by successfully completing a course prescribed by the sheriff renewing the permit.

Sec. 5. NRS 407.0475 is hereby amended to read as follows:

407.0475 1. The Administrator shall adopt such regulations as he or she finds necessary for carrying out the provisions of this chapter and other provisions of law governing the operation of the Division. ~~[~~~~The~~~~]~~ ***Except as otherwise provided in subsection 2, the*** regulations may include prohibitions and restrictions relating to activities within any of the park or recreational facilities within the jurisdiction of the Division.

2. Any regulations relating to the conduct of persons within the park or recreational facilities must:

(a) Be directed toward one or both of the following:

(1) Prevention of damage to or misuse of the facility.

(2) Promotion of the inspiration, use and enjoyment of the people of this State through the preservation and use of the facility.

(b) Apply separately to each park, monument or recreational area and be designed to fit the conditions existing at that park, monument or recreational area.

(c) Not establish restrictions on the possession of firearms within the park or recreational facility which are more restrictive than the laws of this State relating to:

(1) The possession of firearms; or

(2) Engaging in lawful resistance to prevent an offense against a person or property.

➥ Any regulation which violates the provisions of this paragraph is void.

3. Any person whose conduct violates any regulation adopted pursuant to subsection 1, and who refuses to comply with the regulation upon request by any ranger or employee of the Division who has the powers of a peace officer pursuant to NRS 289.260, is guilty of a misdemeanor.

Sec. 5.5. **The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.**

Sec. 6. This act becomes effective on July 1, 2011.

Senator Halseth moved the adoption of the amendment.

Remarks by Senator Halseth.

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

Thank you, Mr. President. This amendment makes a couple of changes to the bill. First, the amendment deletes the changes to the fee provisions in Sections 1 and 4 of the bill so that the bill retains the existing fees for obtaining and renewing a permit to carry a firearm. Second, the amendment adds multiple joint sponsors to the bill. Specifically, the amendment would include all of the Republican Senators as joint sponsors of the bill.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 365.

Bill read third time.

Roll call on Assembly Bill No. 365:

YEAS—21.

NAYS—None.

Assembly Bill No. 365 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 382.

Bill read third time.

Roll call on Assembly Bill No. 382:
YEAS—21.
NAYS—None.

Assembly Bill No. 382 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bill No. 410 be taken from the General File and placed on the General File for the next legislative day.

Senator Horsford moved that all rules be suspended and that Assembly Bill No. 566 be immediately transmitted to the Assembly.

Motion carried on a division of the house.

GENERAL FILE AND THIRD READING

Assembly Bill No. 422.

Bill read third time.

Roll call on Assembly Bill No. 422:
YEAS—21.
NAYS—None.

Assembly Bill No. 422 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 456.

Bill read third time.

Roll call on Assembly Bill No. 456:
YEAS—13.
NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Assembly Bill No. 456 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 477.

Bill read third time.

Roll call on Assembly Bill No. 477:
YEAS—21.
NAYS—None.

Assembly Bill No. 477 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 551.

Bill read third time.

Roll call on Assembly Bill No. 551:
YEAS—18.
NAYS—Halseth, McGinness, Roberson—3.

Assembly Bill No. 551 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5 of the 75th Session.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 5 of the 75th Session:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Joint Resolution No. 5 of the 75th Session having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Assembly Bill No. 59.

Bill read second time.

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

Amendment No. 634.

"SUMMARY—Makes various changes to the Open Meeting Law. (BDR 19-288)"

"AN ACT relating to the Open Meeting Law; requiring a public body to take certain actions if the Attorney General finds that the public body has violated the Open Meeting Law; authorizing the Attorney General to issue subpoenas during investigations of such violations; ~~[revising the definition of "public body" for the purposes of the Open Meeting Law;]~~ **providing that meetings of a public body that are quasi-judicial in nature are subject to the Open Meeting Law under certain circumstances;** requiring a public body to include certain notifications on an agenda for a public meeting; excluding a meeting held to consider an applicant for employment from certain notice requirements; making members of a public body subject to a civil penalty for violations; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Open Meeting Law which requires, except in certain limited situations, that all meetings of public bodies be open and public. It further requires that all persons be allowed to attend any meeting of these public bodies. (NRS 241.020) Existing law makes any action of a public body in violation of the Open Meeting Law void, and requires the Attorney General to investigate and prosecute any violation of the Open Meeting Law. (NRS 241.036, 241.040) If the Attorney General finds that a public body has taken an action which violates the Open Meeting Law,

section 2 of this bill requires the public body to include an item on the next agenda posted for a meeting of the public body acknowledging the finding of the Attorney General regarding such a violation. **Section 2** also provides that such acknowledgment is not an admission of wrongdoing on the part of the public body for the purposes of a civil action, criminal prosecution or injunctive relief. **Section 3** of this bill authorizes the Attorney General to issue subpoenas for the production of documents, records or materials in the course of his or her investigation of any violation of the Open Meeting Law and makes failure or refusal to comply with such a subpoena a misdemeanor.

Section 1.5 of this bill provides that meetings of a public body that are quasi-judicial in nature are subject to the provisions of the Open Meeting Law unless exempted by the Legislative Commission. Section ~~[4 of this bill revises the definition of "public body"]~~ 1.5 also defines when a meeting is quasi-judicial in nature for purposes of the Open Meeting Law**. ~~[to identify the manner in which an entity must be created to be considered a public body and to clarify that a public body consists of at least two members. Section 4 also excludes proceedings of a public body that are judicial or quasi-judicial in nature from the requirements of the Open Meeting Law, unless the public body in question is also a regulatory body.]~~**

Section 5 of this bill adds certain notifications that must be included on an agenda for a meeting of a public body.

Under existing law, if a public body holds a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, it must first provide written notice of that fact and, if such a meeting will be closed, must allow the attendance of certain individuals. Existing law also provides that casual or tangential references to a person or the person's name during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person. (NRS 241.033) **Section 6** of this bill provides that a meeting to consider an applicant for employment does not require prior notice to be given to the applicant.

Existing law makes each member of a public body who attends a meeting where action is taken in violation of the Open Meeting Law with knowledge of the fact that the meeting is in violation guilty of a misdemeanor. (NRS 241.040) **Section 7** of this bill further makes each such member who attends such a meeting subject to a civil penalty in an amount not to exceed $500.

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

Section 1. Chapter 241 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. ***1. Meetings of a public body that are quasi-judicial in nature are subject to the provisions of this chapter unless the public body has received an exemption from the Legislative Commission.***

2. For the purposes of this section, a meeting is quasi-judicial in nature if it is judicial in character and the public body affords to each party in the meeting:

(a) The ability to present and object to evidence;

(b) The ability to cross-examine witnesses;

(c) A written decision; and

(d) An opportunity to appeal the written decision.

Sec. 2. ***1. If the Attorney General makes findings of fact and conclusions of law that a public body has taken action in violation of any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.***

2. The inclusion of an item on the agenda for a meeting of a public body pursuant to subsection 1 is not an admission of wrongdoing for the purposes of a civil action, criminal prosecution or injunctive relief.

Sec. 3. ***1. The Attorney General shall investigate and prosecute any violation of this chapter.***

2. In any investigation conducted pursuant to subsection 1, the Attorney General may issue subpoenas for the production of any relevant documents, records or materials.

3. A person who willfully fails or refuses to comply with a subpoena issued pursuant to this section is guilty of a misdemeanor.

Sec. 4. NRS 241.015 is hereby amended to read as follows:

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

1. "Action" means:

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

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

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

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

2. "Meeting":

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

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

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

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

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

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

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

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

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

3. Except as otherwise provided in this subsection, "public body" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government ***consisting of at least two persons*** which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405 ~~[; and]~~ ***, if the administrative, advisory, executive or legislative body is created by:***

(1) The Constitution of this State;

(2) Any statute of this State;

(3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;

(4) The Nevada Administrative Code;

(5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;

(6) An executive order issued by the Governor; or

(7) A resolution or ~~[order]~~ an action by the governing body of a political subdivision of this State;

(b) ***Any board, commission or committee consisting of at least two persons appointed by:***

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee has at least two members who are not employed by the public officer or entity; and

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

➥ "Public body" does not include the Legislature of the State of Nevada. ~~*[or an entity, other than a regulatory body as defined in NRS 622.060, which would otherwise be considered a public body when such entity is engaged in proceedings that are judicial or quasi-judicial in nature.]*~~

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

Sec. 5. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items ~~[.]~~ ***by placing the term "for possible action" next to the appropriate item.***

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

(6) Notification that:

(I) Items on the agenda may be taken out of order;

(II) The public body may combine two or more agenda items for consideration; and

(III) The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

(7) Any restrictions on comments by the general public. Any such restrictions must be reasonable and may restrict the time, place and manner of the comments, but may not restrict comments based upon viewpoint.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➥ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.

➥ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.

8. As used in this section, "emergency" means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

(a) Disasters caused by fire, flood, earthquake or other natural causes; or

(b) Any impairment of the health and safety of the public.

Sec. 6. NRS 241.033 is hereby amended to read as follows:

241.033 1. ~~[A]~~ ***Except as otherwise provided in subsection 7, a*** public body shall not hold a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of any person or to consider an appeal by a person of the results of an examination conducted by or on behalf of the public body unless it has:

(a) Given written notice to that person of the time and place of the meeting; and

(b) Received proof of service of the notice.

2. The written notice required pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be:

(1) Delivered personally to that person at least 5 working days before the meeting; or

(2) Sent by certified mail to the last known address of that person at least 21 working days before the meeting.

(b) May, with respect to a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, include an informational statement setting forth that the public body may, without further notice, take administrative action against the person if the public body determines that such administrative action is warranted after considering the character, alleged misconduct, professional competence, or physical or mental health of the person.

(c) Must include:

(1) A list of the general topics concerning the person that will be considered by the public body during the closed meeting; and

(2) A statement of the provisions of subsection 4, if applicable.

3. The Nevada Athletic Commission is exempt from the requirements of subparagraphs (1) and (2) of paragraph (a) of subsection 2, but must give written notice of the time and place of the meeting and must receive proof of service of the notice before the meeting may be held.

4. If a public body holds a closed meeting or closes a portion of a meeting to consider the character, alleged misconduct, professional competence, or physical or mental health of a person, the public body must allow that person to:

(a) Attend the closed meeting or that portion of the closed meeting during which the character, alleged misconduct, professional competence, or physical or mental health of the person is considered;

(b) Have an attorney or other representative of the person's choosing present with the person during the closed meeting; and

(c) Present written evidence, provide testimony and present witnesses relating to the character, alleged misconduct, professional competence, or physical or mental health of the person to the public body during the closed meeting.

5. Except as otherwise provided in subsection 4, with regard to the attendance of persons other than members of the public body and the person whose character, alleged misconduct, professional competence, physical or mental health or appeal of the results of an examination is considered, the chair of the public body may at any time before or during a closed meeting:

(a) Determine which additional persons, if any, are allowed to attend the closed meeting or portion thereof; or

(b) Allow the members of the public body to determine, by majority vote, which additional persons, if any, are allowed to attend the closed meeting or portion thereof.

6. A public body shall provide a copy of any record of a closed meeting prepared pursuant to NRS 241.035, upon the request of any person who received written notice of the closed meeting pursuant to subsection 1.

7. For the purposes of this section ~~[, casual]~~ ***:***

(a) A meeting held to consider an applicant for employment is not subject to the notice requirements otherwise imposed by this section.

(b) Casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

Sec. 7. NRS 241.040 is hereby amended to read as follows:

241.040 1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. ***In addition to any criminal penalty imposed pursuant to this section, each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, and who participates in such action with knowledge of the violation, is subject to a civil penalty in an amount not to exceed $500.*** The Attorney General ~~[shall investigate and prosecute any violation of this chapter.]~~ ***may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction. Such an action must be commenced within 1 year after the date of the action taken in violation of this chapter.***

Sec. 8. **1.** This ~~[act becomes]~~ **section and sections 1 and 2 to 7, inclusive, of this act become** effective on July 1, 2011.

2. Section 1.5 of this act becomes effective on January 1, 2012.

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. 634 to Assembly Bill No. 59 deletes the word "order" in Section 4 and inserts "an action" since "action" is defined in Chapter 241 and "order" is not. It adds a new Section 1.5, to become effective on January 1, 2012, stating that proceedings of a public body that are quasi-judicial in nature are subject to the Open Meeting Law unless the public body receives an exemption from the Legislative Commission. The deletion of language in Section 4 conforms with this new section; and adds new language defining "quasi-judicial in nature" as it relates to the language in the proposed new Section 1.5.

This definition was lifted from the Nevada Supreme Court decision on Stockmeier vs. Physiological Review Panel (2006).

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 198.

Bill read second time.

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

Amendment No. 611.

"SUMMARY—Revises provisions governing the Nevada Rural Housing Authority. (BDR 31-376)"

"AN ACT relating to the Nevada Rural Housing Authority; revising the definition of "local government" to include the Authority for the purpose of loans from a local government **in certain counties** to the Authority; revising the requirements for eligibility to serve as a commissioner of the Authority; authorizing the Authority to receive a loan from a local government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, before a local government may make an interfund loan or loan of money to another local government, the governing body of the local government that wishes to make the loan must determine at a public hearing that a sufficient amount of unrestricted money is available for the loan and that the loan will not compromise the economic viability of the fund from which the money is loaned. The local government must also establish at the public hearing: (1) the amount of time the money will be on loan from the fund; (2) the terms and conditions for repaying the loan; and (3) the rate of interest, if any, to be charged for the loan. (NRS 354.6118) For the purpose of making such a loan, the term "local government" does not include the Nevada Rural Housing Authority. (NRS 354.474) Existing law confers upon the Nevada Rural Housing Authority the authority to engage in various activities relating to the purposes for which the Authority was created, including, without limitation, the authority to enter into agreements or other transactions with any governmental agency or other source to further those purposes. (NRS 315.983)

Section 1 of this bill revises the definition of "local government" to include the Nevada Rural Housing Authority for the sole purpose of loans from a local government **in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties)** to the Authority in accordance with existing law. **Section 3** of this bill expands the authorized actions of the Nevada Rural Housing Authority to include receipt by the Authority of such a loan of money from a local government.

Existing law provides for the appointment of five commissioners to serve as members of the Nevada Rural Housing Authority. Of those five commissioners, one commissioner must be appointed jointly by the Nevada

League of Cities and the Nevada Association of Counties and must be a recipient of assistance from the Authority. If that commissioner ceases to receive assistance from the Authority, he or she must be replaced by a person who receives such assistance. (NRS 315.977) **Section 2** of this bill revises the requirements for appointing that commissioner by providing that, if the commissioner no longer receives assistance from the Authority, he or she may continue to serve as a commissioner for the remainder of the unexpired term for which he or she was appointed if he or she resides within the area of operation of the Authority.

Existing law authorizes the Authority to operate in any area of this State which is not included within the corporate limits of a city or town having a population of 100,000 or more. (NRS 315.9835) **Section 4** of this bill authorizes the Authority to provide services in any area of the State if the Authority has contracted with the State or a local government to provide those services in that area. **Section 4** specifies that the provision of those services does not include the making of a mortgage loan ~~[.]~~ **, the issuance of a mortgage credit certificate or bonds to finance a multifamily housing project, the allocation of a low-income housing tax credit or weatherization.**

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

Section 1. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive:

(a) "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 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" ***includes the Nevada Rural Housing Authority for the purpose of loans of money from a local government*** ***in a county whose population is less than 100,000*** ***to the Nevada Rural Housing Authority in accordance with NRS 354.6118. The term*** does not include the Nevada Rural Housing Authority ~~[.]~~ ***for any other purpose.***

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation district which levies an ad valorem tax shall comply with the filing and

publication requirements of NRS 354.470 to 354.626, inclusive, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

Sec. 2. NRS 315.977 is hereby amended to read as follows:

315.977 1. The Nevada Rural Housing Authority, consisting of five commissioners, is hereby created.

2. The commissioners must be appointed as follows:

(a) Two commissioners must be appointed by the Nevada League of Cities.

(b) Two commissioners must be appointed by the Nevada Association of Counties.

(c) One commissioner must be appointed jointly by the Nevada League of Cities and the Nevada Association of Counties. This commissioner must be a current recipient of assistance from the Authority and must be selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects operated by the Authority. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive assistance from the Authority. If during his or her term the commissioner ceases to be a recipient of assistance, the commissioner ~~[must be replaced by a person who is a recipient of assistance.]~~ ***may continue to serve as a commissioner for the remainder of the unexpired term for which he or she was appointed if he or she resides within the area of operation of the Authority.***

3. After the initial terms, the term of office of a commissioner is 4 years or until his or her successor takes office.

4. A majority of the commissioners constitutes a quorum, and a vote of the majority is necessary to carry any question.

5. If either of the appointing entities listed in subsection 2 ceases to exist, the pertinent appointments required by subsection 2 must be made by the successor in interest of that entity or, if there is no successor in interest, by the other appointing entity.

Sec. 3. NRS 315.983 is hereby amended to read as follows:

315.983 1. Except as otherwise provided in NRS 354.474 and 377.057, the Authority:

(a) Shall be deemed to be a public body corporate and politic, and an instrumentality, local government and political subdivision of the State, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out the purposes and provisions of

NRS 315.961 to 315.99874, inclusive, but not the power to levy and collect taxes or special assessments.

(b) Is not an agency, board, bureau, commission, council, department, division, employee or institution of the State.

2. The Authority may:

(a) Sue and be sued.

(b) Have a seal.

(c) Have perpetual succession.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Deposit money it receives in any insured state or national bank, insured credit union, insured savings and loan association, or in the Local Government Pooled Long-Term Investment Account created by NRS 355.165 or the Local Government Pooled Investment Fund created by NRS 355.167.

(f) Adopt bylaws, rules and regulations to carry into effect the powers and purposes of the Authority.

(g) Create a nonprofit organization which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the development of housing projects.

(h) Enter into agreements or other transactions with, and accept grants from and cooperate with, any governmental agency or other source in furtherance of the purposes of NRS 315.961 to 315.99874, inclusive.

(i) ***Enter into an agreement with a local government in a county whose population is less than 100,000 to receive a loan of money from the local government in accordance with NRS 354.6118.***

(j) Acquire real or personal property or any interest therein, by gift, purchase, foreclosure, deed in lieu of foreclosure, lease, option or otherwise.

Sec. 4. NRS 315.9835 is hereby amended to read as follows:

315.9835 The State Authority may ***:***

1. Except as otherwise provided in subsection 2, operate in any area of the State which is not included within the corporate limits of a city or town having a population of 100,000 or more.

2. Provide services in any area of the State if the State Authority has contracted with the State or a local government to provide those services in that area. As used in this subsection, "services" does not include [the] :

(a) The making of a mortgage loan pursuant to NRS 315.9981 to 315.99874, inclusive [.] ;

(b) The issuance of a mortgage credit certificate;

(c) The issuance of bonds to finance a multifamily housing project;

(d) The allocation of a low-income housing tax credit; or

(e) Weatherization other than an assessment or inspection of property for weatherization.

3. As used in this section, "weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.

Sec. 5. (Deleted by amendment.)

Sec. 6. This act becomes effective on July 1, 2011.

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. 611 to Assembly Bill No. 198 clarifies the applicability of the bill to rural counties, those counties whose population is less than 100,000; this means all counties other than Clark and Washoe; and clarifies the types of mortgage-related services that may be offered by the Nevada Rural Housing Authority and certain weatherization activities of the Authority.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 299.

Bill read second time and ordered to third reading.

Assembly Bill No. 304.

Bill read second time.

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

Amendment No. 747.

"SUMMARY—Makes various changes relating to fire performers and apprentice fire performers. (BDR 42-885)"

"AN ACT relating to fire protection; codifying in statute the requirement in regulation that a person obtain a certificate of registration before acting as a fire performer; authorizing a person to act as a fire performer if the person holds a certificate of registration as an apprentice fire performer; providing for the application for and issuance of a certificate of registration as an apprentice fire performer; prohibiting an apprentice fire performer from acting as a fire performer without certain supervision; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Currently, regulations adopted by the State Fire Marshal, who is charged with enforcing all laws and adopting regulations relating to fire prevention, require a person to apply to the State Fire Marshal for a certificate of registration as a fire performer before entertaining or otherwise performing before an audience using an open flame. (NRS 477.030; NAC 477.630) Any person who knowingly violates any of those laws or regulations is guilty of a misdemeanor. (NRS 477.250)

This bill codifies in statute the requirements in those regulations and adds requirements for both fire performers and apprentice fire performers. Under **section 5** of this bill, a person is prohibited from acting as a fire performer unless the person is the holder of a certificate of registration as a fire

performer, as in existing regulation. **Section 5** also authorizes a person to act as a fire performer if the person is the holder of a certificate of registration as an apprentice fire performer. **Section 5** authorizes the State Fire Marshal to issue either certificate to a person who ~~[is at least 18 years of age,]~~ **meets the age requirement for that certificate,** submits an application that includes a description of the person's experience as a fire performer or apprentice fire performer and all safety precautions used by the applicant while acting as a fire performer or apprentice fire performer, and pays an application fee prescribed by regulations adopted by the State Fire Marshal. **Section 5** also provides for the renewal of each such certificate.

Section 6 of this bill prohibits an apprentice fire performer from acting as a fire performer unless the apprentice is directly supervised at all times by a registered fire performer who is at least 21 years of age. The person supervising must ensure that the apprentice fire performer safely handles and operates any equipment and complies with all applicable laws relating to acting as a fire performer.

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

Section 1. Chapter 477 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, 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. ***"Apprentice fire performer" means a person who is issued a certificate of registration as an apprentice fire performer pursuant to section 5 of this act.***

Sec. 4. ***"Fire performer" means an entertainer or other performer who performs for an audience using an open flame*** ~~***[.]***~~ ***in a venue authorized by permit of a governmental entity.***

Sec. 5. ***1. A person shall not act as a fire performer unless the person is the holder of a certificate of registration as a fire performer or apprentice fire performer issued by the State Fire Marshal pursuant to this section.***

2. An applicant for a certificate of registration as a fire performer or apprentice fire performer must:

(a) Be a natural person ~~***[who is]***~~ ***and, if the application is:***

(1) For a fire performer, be at least 21 years of age; or

(2) For an apprentice fire performer, be at least 18 years of age;

(b) Make a written notarized application to the State Fire Marshal on a form provided by the State Fire Marshal;

(c) Submit to the State Fire Marshal a resume setting forth the experience of the applicant as a fire performer or apprentice fire performer and a description of all safety precautions used by the applicant while acting as a fire performer or apprentice fire performer; and

(d) Pay an application fee in an amount prescribed by regulations adopted by the State Fire Marshal.

3. The State Fire Marshal may:

(a) Issue to any person who applies for either certificate pursuant to subsection 2 a certificate of registration as a fire performer or apprentice fire performer; and

(b) Renew a certificate of registration as a fire performer or apprentice fire performer to any person who applies for a renewal in a manner specified by the State Fire Marshal and pays a renewal fee in an amount prescribed by regulations adopted by the State Fire Marshal.

4. A certificate of registration as a fire performer or apprentice fire performer is valid for the period prescribed by regulations adopted by the State Fire Marshal.

Sec. 6. ***1. An apprentice fire performer may not act as a fire performer unless, at all times while the apprentice fire performer is acting as a fire performer, the apprentice fire performer is directly supervised by a person who:***

(a) Is at least 21 years of age; and

(b) Is the holder of a certificate of registration as a fire performer issued pursuant to section 5 of this act.

2. While an apprentice fire performer is acting as a fire performer, the fire performer who is directly supervising the apprentice fire performer shall ensure that the apprentice fire performer:

(a) Safely handles and operates any equipment used by the apprentice fire performer; and

(b) Complies with all applicable laws and regulations concerning acting as a fire performer.

Sec. 7. ***1. In addition to any other requirements set forth in sections 2 to 8, inclusive, of this act, an applicant for the issuance or renewal of a certificate of registration pursuant to section 5 of this act shall:***

(a) Include the social security number of the applicant in the application submitted to the State Fire Marshal.

(b) Submit to the State Fire Marshal 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 State Fire Marshal 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

(b) A separate form prescribed by the State Fire Marshal.

3. A certificate of registration may not be issued or renewed by the State Fire Marshal pursuant to section 5 of this act 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 State Fire Marshal 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. 8. ***1. If the State Fire Marshal receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a certificate of registration as a fire performer or apprentice fire performer, the State Fire Marshal shall deem the certificate of registration issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the State Fire Marshal receives a letter issued to the holder of the certificate of registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate of registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.***

2. The State Fire Marshal shall reinstate a certificate of registration as a fire performer or apprentice fire performer that has been suspended by a district court pursuant to NRS 425.540 if the State Fire Marshal receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate of registration was suspended stating that the person whose certificate of registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 9. On or before December 30, 2011, the State Fire Marshal shall adopt any regulations necessary to carry out the amendatory provisions of this act.

Sec. 10. 1. 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 7 and 8 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

➥ are repealed by the Congress of the United States.

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. 747 to Assembly Bill No. 304 clarifies that an apprentice fire performer must be at least 18 years of age and a fire performer must be at least 21 years of age; and clarifies the definition of "fire performer" to mean a person who performs for an audience using an open flame in a venue authorized by permit of a governmental entity. Local entities already permit performances using an open flame. This amendment conforms with the definition of this current practice.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 309.

Bill read second time.

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

Amendment No. 597.

"SUMMARY—Revises provisions governing insurance. (BDR 57-516)"

"AN ACT relating to insurance; creating the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry; requiring the Governor to appoint a Consumer Advocate as the executive head of the office; requiring the Consumer Advocate to intervene in and represent the public interest in public hearings relating to rates for certain ~~[policies, contracts or plans of health insurance;]~~ **health benefit plans;** requiring an insurer to provide certain information to the Consumer Advocate and the Division and publish on an Internet website maintained by the insurer certain information concerning each ~~[policy, contract or plan of health insurance]~~ **such health benefit plan** offered by the insurer in this State; requiring the Commissioner of Insurance to publish on an Internet website maintained by the Division certain information relating to health insurance rates and public hearings relating to rates for ~~[certain policies, contracts or plans of health insurance;]~~ **such health benefit plans;** authorizing an insurer and the Consumer Advocate to request a public hearing on any rate or proposed rate increase or decrease of **such** a ~~[policy, contract or plan of health insurance]~~ **health benefit plan** filed by the insurer with the Commissioner; authorizing a consumer of health insurance to request a public hearing on certain rates and proposed rate increases or decreases of **such** a ~~[policy, contract or plan of health insurance]~~ **health benefit plan** filed by an insurer with the Commissioner; authorizing the Commissioner to hold a public hearing on a rate or proposed rate increase or

decrease of **such** a ~~[policy, contract or plan of health insurance]~~ **health benefit plan** filed by an insurer; ~~[removing]~~ **revising** certain provisions relating to trade secrets of insurers; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Insurance Code is set forth in title 57 of NRS. Section 1 of this bill provides that no provision of the Code applies to Medicaid or the Children's Health Insurance Program.

The Commissioner of Insurance has exclusive authority to regulate insurers in this State and to approve or disapprove rates or proposed rate increases of insurers. (Chapters 679B, 680A and 686B of NRS) **Section 2** of this bill creates the Office of the Consumer Advocate within the Division of Insurance of the Department of Business and Industry and requires the Governor to appoint a Consumer Advocate to serve as executive head of the office and to intervene in and represent the public interest in certain public hearings relating to rates or proposed rate increases or decreases for ~~[certain policies, contracts or plans of health insurance.]~~ **individual health benefit plans and group health plans for small employers.** **Section 3** of this bill requires an insurer to provide certain information to the Consumer Advocate and the Division, and **section 6** of this bill requires an insurer to publish on an Internet website maintained by the insurer the ~~[provisions, terms, rates,]~~ **base** premiums, certificates of coverage and actual and projected loss ratios of ~~[each policy, contract or plan of health insurance]~~ **such health benefit plans** offered by the insurer to consumers in this State. **Section 6** also requires the Division to maintain a link to the Internet website of the insurer on an Internet website maintained by the Division.

Section 7 of this bill authorizes the Commissioner to hold a public hearing before approving or denying a rate or proposed rate increase or decrease of **such** a ~~[policy, contract or plan of health insurance.]~~ **health benefit plan.** **Section 7** also authorizes an insurer, the Consumer Advocate or a consumer of health insurance to request such a public hearing. **Section 7** further requires the insurer and Commissioner to publish on an Internet website maintained by the insurer or Division, respectively, certain information relating to a request for approval of a rate or proposed rate increase or decrease, including the date by which a person must request a public hearing concerning a rate or proposed rate increase. **Section 12** of this bill requires that certain information be filed with the Commissioner and provides that **, with certain exceptions relating to confidentiality and trade secrets,** the information which is filed by certain insurers is available to the public upon a written request.

Existing law prohibits the Commissioner from disclosing to a third party certain proprietary information of an insurer. (NRS 689A.695, 689B.115, 689C.250) **Sections 18-20** of this bill delete those provisions.

An insurer that violates the provisions of **section 3, 6, 7 or 21** of this bill is guilty of a misdemeanor. (NRS 679A.180)

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

Section 1. **NRS 679A.160 is hereby amended to read as follows:**

679A.160 Except as otherwise provided by specific statute, no provision of this Code applies to:

1. Fraternal benefit societies, as identified in chapter 695A of NRS, except as stated in chapter 695A of NRS.

2. Hospital, medical or dental service corporations, as identified in chapter 695B of NRS, except as stated in chapter 695B of NRS.

3. Motor clubs, as identified in chapter 696A of NRS, except as stated in chapter 696A of NRS.

4. Bail agents, as identified in chapter 697 of NRS, except as stated in NRS 680B.025 to 680B.039, inclusive, and chapter 697 of NRS.

5. Risk retention groups, as identified in chapter 695E of NRS, except as stated in chapter 695E of NRS.

6. Captive insurers, as identified in chapter 694C of NRS, with respect to their activities as captive insurers, except as stated in chapter 694C of NRS.

7. Health and welfare plans arising out of collective bargaining under chapter 288 of NRS, except that the Commissioner may review the plan to ensure that the benefits are reasonable in relation to the premiums and that the fund is financially sound.

8. Medicaid or the Children's Health Insurance Program as described in chapter 422 of NRS.

~~[Section 1.]~~ ***Sec. 1.5.*** Chapter 679B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. The Office of the Consumer Advocate is hereby created within the Division. The Governor shall appoint the Consumer Advocate as the executive head of the office. The Consumer Advocate is not subject to the supervision or control of the Division or the Commissioner in carrying out his or her duties.***

2. The Governor shall appoint the Consumer Advocate for a term of 4 years. The Consumer Advocate is in the unclassified service of the State.

3. The Consumer Advocate shall intervene in and represent the public interest in all public hearings conducted by the Commissioner pursuant to section 7 of this act.

4. The Consumer Advocate may apply to the Commissioner for the issuance of a subpoena pursuant to NRS 679B.340 for the appearance of witnesses or the production of books, papers and documents in any public hearing in which the Consumer Advocate intervenes and may make arrangements for and pay the fees or costs of any witnesses and consultants necessary to the public hearing.

5. The Commissioner may apply for any available grants and may accept any gifts, grants and donations from any source to defray the costs of the Consumer Advocate in carrying out his or her duties.

~~[5.]~~ ***6. To the extent money is available for this purpose, the Commissioner may employ in the unclassified service of the State any personnel necessary to assist with the duties and responsibilities of the Consumer Advocate.***

~~[6.]~~ ***7. The Governor may remove the Consumer Advocate from office for inefficiency, neglect of duty or malfeasance in office.***

Sec. 3. ***1. An insurer that offers any*** ~~[policy, contract or plan of health insurance]~~ ***health benefit plan in this State shall provide the Consumer Advocate and the Division with copies of any proposed changes in rates and any other information used to calculate a rate or proposed rate increase or decrease. Information provided to the Consumer Advocate and the Division pursuant to this section must be submitted in an electronic format prescribed by the Commissioner.***

2. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

Sec. 4. NRS 679B.510 is hereby amended to read as follows:

679B.510 As used in NRS 679B.510 to 679B.560, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 679B.520, 679B.530 and 679B.540 have the meanings ascribed to them in those sections.

Sec. 5. Chapter 686B of NRS is hereby amended by adding thereto the provisions set forth as sections 6, 7 and 7.5 of this act.

Sec. 6. ***1. An insurer shall, on or before a date established by the Commissioner, publish on an Internet website maintained by the insurer the*** ~~[provisions, terms, rates,]~~ ***base premiums, certificates of coverage, projected loss ratio reported to the Department of Health and Human Services for the current fiscal year and the next following fiscal year*** ~~[of each policy, contract or plan of health insurance]~~ ***for each health benefit plan offered by the insurer in this State, and actual loss ratio*** ~~[of each policy, contract or plan of health insurance]~~ ***reported to the Department of Health and Human Services for the immediately preceding fiscal year for each health benefit plan offered by the insurer in this State .*** ~~[for the immediately preceding fiscal year.]~~ ***An insurer shall update the information published pursuant to this subsection each time the insurer changes or modifies*** ~~[any provision, term, rate or]~~ ***the base premium or certificate of coverage of such a*** ~~[policy, contract or]~~ ***health benefit plan and shall ensure that the information published pursuant to this subsection does not include any personally identifying information or confidential medical information.***

2. The Division shall publish on an Internet website maintained by the Division a link to the Internet website maintained by each insurer on which information is published as required by subsection 1.

3. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

4. As used in this section, "loss ratio" has the meaning ascribed to it in section 2718(b)(1)(A) of the Public Health Service Act, as amended by Public Law 111-148.

Sec. 7. ***1. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a [policy, contract or plan of health insurance,] health benefit plan and upon a determination by the Commissioner that the proposal is complete, the insurer and Commissioner shall publish on an Internet website maintained by the insurer and Division, respectively, notice of the filing, any information relating to the rate or proposed rate increase or decrease, other than confidential medical information, and the date by which a request for a public hearing on the rate or proposed rate increase or decrease must be submitted pursuant to subsection 2.***

2. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a [policy, contract or plan of health insurance:] health benefit plan:

(a) The insurer or rate service organization that files the rate or proposed rate increase or decrease or the Consumer Advocate may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease; and

(b) A consumer of health insurance may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease if:

(1) The proposed rate increase or decrease is more than 10 percent of the current rate; or

(2) The [policy, contract or plan of health insurance] health benefit plan represents more than 5 percent of its market segment in the State,

➥ by submitting to the Commissioner a written request for a public hearing not later than [30] 28 days after the date of first publication of the notice of the rate or proposed rate increase or decrease pursuant to subsection 1.

3. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a [policy, contract or plan of health insurance] health benefit plan or upon a request for a public hearing pursuant to subsection 2, the Commissioner may conduct a public hearing on the rate or proposed rate increase or decrease. In determining whether a public hearing should be held upon a request submitted by a consumer of health insurance covered by a group health plan for small employers, the Commissioner may, without limitation, consider whether the consumer of health insurance is representative of a majority of the employees covered under the group health plan.

4. If the Commissioner determines that a public hearing should be held pursuant to subsection 3, the Commissioner shall provide notice to the insurer or rate service organization and to the general public of the public hearing not later than 15 days before the date of the public hearing and shall conduct the public hearing not later than 45 days after a determination by the Commissioner that the filing of the rate or proposed rate increase or decrease is complete.

5. Upon receipt of the notice of a public hearing from the Commissioner, an insurer or rate service organization shall provide notice of the public hearing on its website and to each of its policyholders who would be affected by the proposed change at his or her mailing address or electronic mailing address not later than 10 days before the date of the public hearing.

6. To the extent practicable, a public hearing that is conducted pursuant to this section on a weekday must be conducted after 5 p.m.

7. If a public hearing is conducted pursuant to subsection 3, the Commissioner , in addition to complying with the requirements of NRS 241.035, shall publish on an Internet website maintained by the Division:

(a) A transcript of the public hearing not later than ~~[15]~~ 30 days after the date of the hearing; and

(b) Any finding, decision or order of the Commissioner not later than 15 days after the date of issuance of the finding, decision or order.

8. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

9. As used in this section, "Consumer Advocate" means the Consumer Advocate appointed by the Governor pursuant to section 2 of this act.

Sec. 7.5. (Deleted by amendment.)

Sec. 8. NRS 686B.010 is hereby amended to read as follows:

686B.010 1. The Legislature intends that NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** be liberally construed to achieve the purposes stated in subsection 2, which constitute an aid and guide to interpretation but not an independent source of power.

2. The purposes of NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** **are to:**

(a) Protect policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates;

(b) Encourage, as the most effective way to produce rates that conform to the standards of paragraph (a), independent action by and reasonable price competition among insurers;

(c) Provide formal regulatory controls for use if independent action and price competition fail;

(d) Authorize cooperative action among insurers in the rate-making process, and to regulate such cooperation in order to prevent practices that tend to bring about monopoly or to lessen or destroy competition;

(e) Encourage the most efficient and economic marketing practices; and

(f) Regulate the business of insurance in a manner that will preclude application of federal antitrust laws.

Sec. 9. NRS 686B.020 is hereby amended to read as follows:

686B.020 As used in NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act,*** unless the context otherwise requires:

1. "Advisory organization," except as limited by NRS 686B.1752, means any person or organization which is controlled by or composed of two or more insurers and which engages in activities related to rate making. For the purposes of this subsection, two or more insurers with common ownership or operating in this State under common ownership constitute a single insurer. An advisory organization does not include:

(a) A joint underwriting association;

(b) An actuarial or legal consultant; or

(c) An employee or manager of an insurer.

2. "Market segment" means any line or kind of insurance or, if it is described in general terms, any subdivision thereof or any class of risks or combination of classes.

3. "Rate service organization" means any person, other than an employee of an insurer, who assists insurers in rate making or filing by:

(a) Collecting, compiling and furnishing loss or expense statistics;

(b) Recommending, making or filing rates or supplementary rate information; or

(c) Advising about rate questions, except as an attorney giving legal advice.

4. "Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, minimum premium, policy fee, rating rule, rule of underwriting relating to rates and any other information prescribed by regulation of the Commissioner.

Sec. 10. NRS 686B.030 is hereby amended to read as follows:

686B.030 1. Except as otherwise provided in subsection 2 ~~*[and sections 6, 7 and 7.5 of this act, the provisions of]*~~ NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** apply to all kinds and lines of direct insurance written on risks or operations in this State by any insurer authorized to do business in this State, except:

(a) Ocean marine insurance;

(b) Contracts issued by fraternal benefit societies;

(c) Life insurance and credit life insurance;

(d) Variable and fixed annuities;

(e) ~~[Group and blanket health insurance and credit]~~ ***Credit*** health insurance;

(f) Property insurance for business and commercial risks;

(g) Casualty insurance for business and commercial risks other than insurance covering the liability of a practitioner licensed pursuant to chapters 630 to 640, inclusive, of NRS; ~~[and]~~

(h) Surety insurance ~~[.]~~ ***; and***

(i) Contracts relating to Medicaid or the Children's Health Insurance Program as described in chapter 422 of NRS.

2. The exclusions set forth in paragraphs (f) and (g) of subsection 1 extend only to issues related to the determination or approval of premium rates.

Sec. 11. NRS 686B.040 is hereby amended to read as follows:

686B.040 1. Except as otherwise provided in subsection 2, the Commissioner may by rule exempt any person or class of persons or any market segment from any or all of the provisions of NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** if and to the extent that the Commissioner finds their application unnecessary to achieve the purposes of those sections.

2. The Commissioner may not, by rule or otherwise, exempt an insurer from the provisions of NRS 686B.010 to 686B.1799, inclusive, ***and sections 6, 7 and 7.5 of this act*** with regard to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient.

Sec. 12. NRS 686B.070 is hereby amended to read as follows:

686B.070 1. Every authorized insurer and every rate service organization licensed under NRS 686B.140 which has been designated by any insurer for the filing of rates under subsection 2 of NRS 686B.090 shall file with the Commissioner ~~[all:]~~ ***for approval:***

(a) ~~[Rates]~~ ***All rates*** and proposed ***rate*** increases ~~[thereto;]~~ ***or decreases;***

(b) ~~[Forms]~~ ***All forms*** of policies to which the rates apply;

(c) ~~[Supplementary]~~ ***All supplementary*** rate information; and

(d) ~~[Changes and amendments thereof,~~

~~made by it for use in this state.]~~ ***Any formula, supporting data or other information used to calculate the rate or proposed rate increase or decrease filed pursuant to paragraph (a).***

2. If an insurer makes a filing for a proposed increase in a rate for insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, the insurer shall not include in the filing any component that is directly or indirectly related to the following:

(a) Capital losses, diminished cash flow from any dividends, interest or other investment returns, or any other financial loss that is materially outside of the claims experience of the professional liability insurance industry, as determined by the Commissioner.

(b) Losses that are the result of any criminal or fraudulent activities of a director, officer or employee of the insurer.

➥ If the Commissioner determines that a filing includes any such component, the Commissioner shall, pursuant to NRS 686B.110, disapprove the proposed increase, in whole or in part, to the extent that the proposed increase relies upon such a component.

3. A rate or proposed rate increase or decrease filed pursuant to subsection 1 must not go into effect until approved pursuant to NRS 686B.110.

4. ~~[Except for the filing of a rate or proposed rate increase or decrease of a policy, contract or plan of health insurance issued to a group pursuant to NRS 689B.026, the]~~ The information submitted with the filing of a rate or proposed rate or rate increase pursuant to subsection 1, other than confidential medical information , ~~[or]~~ any information relating to the amount, terms or conditions of reimbursement pursuant to a contract between the insurer and a third party ~~[.]~~ or any information the Commissioner determines is a trade secret, is public and must be provided to any person upon written request.

5. As used in this section, "trade secret" has the meaning ascribed to it in subsection 5 of NRS 600A.030.

Sec. 13. NRS 686B.090 is hereby amended to read as follows:

686B.090 1. An insurer shall establish rates and supplementary rate information for any market segment based on the factors in NRS 686B.060. If an insurer has insufficient creditable loss experience, it may use rates and supplementary rate information prepared by a rate service organization, with modification for its own expense and loss experience.

2. ~~[An]~~ ***Except as otherwise provided in section 7 of this act, an*** insurer may discharge its obligation under subsection 1 of NRS 686B.070 by giving notice to the Commissioner that it uses rates and supplementary rate information prepared by a designated rate service organization, with such information about modifications thereof as are necessary fully to inform the Commissioner. The insurer's rates and supplementary rate information shall be deemed those filed from time to time by the rate service organization, including any amendments thereto as filed, subject to the modifications filed by the insurer.

Sec. 14. NRS 686B.110 is hereby amended to read as follows:

686B.110 1. The Commissioner shall consider each ***rate or*** proposed increase or decrease in the rate of any kind or line of insurance or subdivision thereof filed with the Commissioner pursuant to subsection 1 of NRS 686B.070. If the Commissioner finds that a proposed increase will result in a rate which is not in compliance with NRS 686B.050 or subsection 2 of NRS 686B.070, the Commissioner shall disapprove the proposal. The Commissioner shall approve or disapprove each proposal ~~[no]~~ ***:***

(a) If the Commissioner conducts a public hearing on the proposal pursuant to section 7 of this act, not **later than** ~~[60]~~ ***30*** days after ~~[it is determined by]~~ ***the date of the public hearing; or***

(b) If no public hearing is held on the proposal pursuant to section 7 of this act, not later than ~~*[30]*~~ ***45 days after the date on which*** the Commissioner ***determines the proposal*** to be complete pursuant to subsection ~~[4.]~~ ***5.***

2. If the Commissioner fails to approve or disapprove the proposal within ~~[that]~~ ***the*** period ~~[,]~~ ***specified in subsection 1,*** the proposal shall be deemed approved.

~~[2.]~~ ***3.*** Whenever an insurer has no legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner shall on request specify interim rates for the insurer that are high enough to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the Commissioner. When new rates become legally effective, the Commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis must not be required.

~~[3.]~~ ***4.*** If the Commissioner disapproves a ***rate or*** proposed rate ***increase or decrease*** and an insurer requests a hearing to determine the validity of the action of the Commissioner, the insurer has the burden of showing compliance with the applicable standards for rates established in NRS 686B.010 to 686B.1799, inclusive ~~[.]~~ ***, and sections 6, 7 and 7.5 of this act.*** Any such hearing must be held:

(a) Within 30 days after the request for a hearing has been submitted to the Commissioner; or

(b) Within a period agreed upon by the insurer and the Commissioner.

➥ If the hearing is not held within the period specified in paragraph (a) or (b), or if the Commissioner fails to issue an order concerning the ***rate or*** proposed rate ***increase or decrease*** for which the hearing is held within 45 days after the hearing, the proposed rate ***or proposed rate increase or decrease*** shall be deemed approved.

~~[4.]~~ *5.* The Commissioner shall by regulation specify the documents or any other information which must be included in a proposal for a rate or to increase or decrease a rate ~~[submitted to]~~ ***filed with*** the Commissioner pursuant to subsection 1 ~~[.]~~ ***of NRS 686B.070.*** Each such proposal shall be deemed complete upon its filing with the Commissioner, unless the Commissioner, within 15 business days after the proposal is filed with the Commissioner, determines that the proposal is incomplete because the proposal does not comply with the regulations adopted by the Commissioner pursuant to this subsection.

Sec. 15. NRS 686B.117 is hereby amended to read as follows:

686B.117 If a filing made with the Commissioner pursuant to ~~[paragraph (a) of]~~ subsection 1 of NRS 686B.070 pertains to insurance covering the liability of a practitioner licensed pursuant to chapter 630, 631, 632 or 633 of NRS for a breach of the practitioner's professional duty toward a patient, any interested person, and any association of persons or

organization whose members may be affected, may intervene as a matter of right in any hearing or other proceeding conducted to determine whether the applicable rate or proposed increase thereto:

1. Complies with the standards set forth in NRS 686B.050 and subsection 2 of NRS 686B.070.

2. Should be approved or disapproved.

Sec. 16. NRS 687B.120 is hereby amended to read as follows:

687B.120 1. No life or health insurance policy or contract, annuity contract form, policy form, health care plan or plan for dental care, whether individual, group or blanket, including those to be issued by a health maintenance organization, organization for dental care or prepaid limited health service organization, or application form where a written application is required and is to be made a part of the policy or contract, or printed rider or endorsement form or form of renewal certificate, or form of individual certificate or statement of coverage to be issued under group or blanket contracts, or by a health maintenance organization, organization for dental care or prepaid limited health service organization, may be delivered or issued for delivery in this state, unless the form has been filed with and approved by the Commissioner. ~~[This subsection does not apply to any special rider or endorsement which relates to the manner of distribution of benefits or to the reservation of rights and benefits under life or health insurance policies, which special riders or endorsements are used at the request of the individual policyholder, contract holder or certificate holder.]~~ As to group insurance policies effectuated and delivered outside this state but covering persons resident in this state, the group certificates to be delivered or issued for delivery in this state must be filed, for informational purposes only, with the Commissioner at the request of the Commissioner.

2. Every ~~[such]~~ filing ***made pursuant to subsection 1*** must be made not less than 45 days in advance of any ~~[such]~~ delivery ~~[.]~~ ***pursuant to subsection 1***. At the expiration of 45 days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the Commissioner. Approval of any such form by the Commissioner constitutes a waiver of any unexpired portion of such waiting period. The Commissioner may extend by not more than an additional 30 days the period within which the Commissioner may so affirmatively approve or disapprove any such form, by giving notice to the insurer of the extension before expiration of the initial 45-day period. At the expiration of any such period as so extended, and in the absence of prior affirmative approval or disapproval, any such form shall be deemed approved. The Commissioner may at any time, after notice and for cause shown, withdraw any such approval.

3. Any order of the Commissioner disapproving any such form or withdrawing a previous approval must state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form is effective at the

expiration of such a period, not less than 30 days after the giving of notice of withdrawal, as the Commissioner in such notice prescribes.

4. The Commissioner may, by order, exempt from the requirements of this section for so long as the Commissioner deems proper any insurance document or form or type thereof specified in the order, to which, in the opinion of the Commissioner, this section may not practicably be applied, or the filing and approval of which are, in the opinion of the Commissioner, not desirable or necessary for the protection of the public.

5. Appeals from orders of the Commissioner disapproving any such form or withdrawing a previous approval may be taken as provided in NRS 679B.310 to 679B.370, inclusive.

Sec. 17. (Deleted by amendment.)

Sec. 18. NRS 689A.695 is hereby amended to read as follows:

689A.695 An individual carrier shall make the information and documents described in NRS 689A.680 to 689A.700, inclusive, available to the Commissioner upon request. ~~[Except in cases of violations of the provisions of this chapter, the information, other than the premium rates charged by the individual carrier, is proprietary, constitutes a trade secret and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the individual carrier or as ordered by a court of competent jurisdiction.]~~

Sec. 19. NRS 689B.115 is hereby amended to read as follows:

689B.115 An insurer providing blanket health insurance shall make all information concerning rates available to the Commissioner upon request. ~~[The information is proprietary, constitutes a trade secret, and may not be disclosed by the Commissioner to any person outside the Division except as agreed by the insurer or ordered by a court of competent jurisdiction.]~~

Sec. 20. NRS 689C.250 is hereby amended to read as follows:

689C.250 A carrier serving small employers shall make the information and documents described in NRS 689C.210 to 689C.240, inclusive, available to the Commissioner upon request. ~~[Except in cases of violations of NRS 689C.015 to 689C.355, inclusive, the information is proprietary, constitutes a trade secret, and is not subject to disclosure by the Commissioner to persons outside of the Division except as agreed to by the carrier or as ordered by a court of competent jurisdiction.]~~

Sec. 21. Section 7 of this act is hereby amended to read as follows:

Sec. 7. 1. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan and upon a determination by the Commissioner that the proposal is complete, the insurer and Commissioner shall publish on an Internet website maintained by the insurer and Division, respectively, notice of the filing, any information relating to the rate or proposed rate increase or decrease, other than confidential medical information, and the date by which a request for a public hearing on the rate or proposed rate increase or decrease must be submitted pursuant to subsection 2.

2. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan:

(a) The insurer or rate service organization that files the rate or proposed rate increase or decrease ~~[or the Consumer Advocate]~~ may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease; and

(b) A consumer of health insurance may request that the Commissioner conduct a public hearing on the rate or proposed rate increase or decrease if:

(1) The proposed rate increase or decrease is more than 10 percent of the current rate; or

(2) The health benefit plan represents more than 5 percent of its market segment in the State,

➥ by submitting to the Commissioner a written request for a public hearing not later than 28 days after the date of first publication of the notice of the rate or proposed rate increase or decrease pursuant to subsection 1.

3. Upon the filing of a rate or proposed rate increase or decrease pursuant to NRS 686B.070 for a health benefit plan or upon a request for a public hearing pursuant to subsection 2, the Commissioner may conduct a public hearing on the rate or proposed rate increase or decrease. In determining whether a public hearing should be held upon a request submitted by a consumer of health insurance covered by a group health plan for small employers, the Commissioner may, without limitation, consider whether the consumer of health insurance is representative of a majority of the employees covered under the group health plan.

4. If the Commissioner determines that a public hearing should be held pursuant to subsection 3, the Commissioner shall provide notice to the insurer or rate service organization and to the general public of the public hearing not later than 15 days before the date of the public hearing and shall conduct the public hearing not later than 45 days after a determination by the Commissioner that the filing of the rate or proposed rate increase or decrease is complete.

5. Upon receipt of the notice of a public hearing from the Commissioner, an insurer or rate service organization shall provide notice of the public hearing on its website and to each of its policyholders who would be affected by the proposed change at his or her mailing address or electronic mailing address not later than 10 days before the date of the public hearing.

6. To the extent practicable, a public hearing that is conducted pursuant to this section on a weekday must be conducted after 5 p.m.

7. If a public hearing is conducted pursuant to subsection 3, the Commissioner, in addition to complying with the requirements of

NRS 241.035, shall publish on an Internet website maintained by the Division:

(a) A transcript of the public hearing not later than 30 days after the date of the hearing; and

(b) Any finding, decision or order of the Commissioner not later than 15 days after the date of issuance of the finding, decision or order.

8. The provisions of this section apply only to individual health benefit plans described in chapter 689A of NRS and group health plans for small employers described in chapter 689C of NRS.

~~[9. As used in this section, "Consumer Advocate" means the Consumer Advocate appointed by the Governor pursuant to section 2 of this act.]~~

Sec. 22. **(Deleted by amendment.)**

Sec. 23. 1. This section and sections 1 to **4, inclusive, 10, 12 and 15 to** 20, inclusive, **and 22** of this act become effective on July 1, 2011.

2. **Sections 5 to 9, inclusive, 11, 13 and 14 of this act become effective on October 1, 2011.**

3. Sections 2, 3, ~~[7,]~~ 13 and 14 of this act expire by limitation on the date on which the Governor by proclamation declares that the money for funding the Office of the Consumer Advocate will no longer be available.

~~[3. Sections]~~

4. Section 21 ~~[and 22]~~ of this act ~~[become]~~ **becomes** effective on the date on which the Governor by proclamation declares that the money for funding the Office of the Consumer Advocate will no longer be available.

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. 597 to Assembly Bill No. 309 provides that no provision of the Nevada Insurance Code applies to Medicaid or to the Children's Health Insurance Program.

It also makes the bill applicable to health benefits plans rather than to any policy, contract, or plan of health insurance.

The amendment authorizes the Consumer Advocate to apply to the Commissioner of Insurance for the issuance of a subpoena under certain circumstances.

The amendment makes certain changes to the information an insurer is required to publish on an Internet website and protects from disclosure any information the Insurance Commissioner determines is a trade secret.

Finally, the amendment makes changes to the effective date of certain sections of the bill.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 360.

Bill read second time.

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

Amendment No. 748.

"SUMMARY—Revises provisions governing ~~[the imposition of civil penalties for violations of]~~ city or county ordinances regarding the abatement of certain conditions and nuisances on property within the city or county. (BDR 21-266)"

"AN ACT relating to local governments; **requiring a city or county to provide by ordinance that property owners have 30 days to abate a nuisance or dangerous or noxious condition under certain circumstances;** authorizing a city or county to collect civil penalties imposed for failure to abate certain conditions and nuisances on property within the city or county as a special assessment against the property under certain circumstances; revising provisions relating to the maximum amount of a civil penalty that may be imposed for failure to abate certain nuisances on property within the city or county under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, if an owner of property within a city fails to abate a dangerous or noxious condition, a chronic nuisance or, in larger counties, an abandoned nuisance on the property after being directed to do so, the owner may be required to pay civil penalties as well as any costs incurred by the city to abate the condition or nuisance. In addition to any other reasonable means of recovering its abatement costs, the city is authorized to make those costs a special assessment against the property and collect the special assessment in the same manner as ordinary county taxes are collected. (NRS 268.4122-268.4126) Existing law sets forth parallel authority for counties to abate chronic nuisances and public nuisances and provides that abatement costs for public nuisances must be received as a special assessment against the affected property. (NRS 244.3603, 244.3605) **This bill provides that a city or county must allow a property owner at least 30 days to abate a condition or nuisance if the condition or nuisance: (1) is not an immediate danger to the public health, safety or welfare; and (2) was caused by the criminal activity of another person.** This bill authorizes a city or county to also collect any civil penalties imposed against the owner of the property as a special assessment against the property if the amount of the uncollected civil penalties after 12 months is more than $5,000.

Under existing law, the maximum civil penalty that is authorized to be imposed on an owner of property in a city or county for failure to abate a chronic nuisance on the property is $500 per day. (NRS 244.3603, 268.4124) **Sections 2 and 5** of this bill increase that maximum authorized civil penalty to ~~[$1,000]~~ **$750** per day if the relevant property is nonresidential property. **Section 3** of this bill provides a maximum civil penalty that a city may impose for the failure to abate an abandoned nuisance of ~~[$1,000]~~ **$750** per day against an owner of nonresidential property and $500 per day against an owner of residential property.

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

Section 1. NRS 268.4122 is hereby amended to read as follows:

268.4122 1. The governing body of a city may adopt by ordinance procedures pursuant to which the governing body or its designee may order an owner of property within the city to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish, refuse, litter, garbage, abandoned or junk vehicles or junk appliances which are not subject to the provisions of chapter 459 of NRS; or

(c) Clear weeds and noxious plant growth,

➥ to protect the public health, safety and welfare of the residents of the city.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, of the existence on the property of a condition set forth in subsection 1 and the date by which the owner must abate the condition. ~~[; and]~~

(2) ***If the condition is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the condition.***

(3) Afforded an opportunity for a hearing before the designee of the governing body and an appeal of that decision. The ordinance must specify whether all such appeals are to be made to the governing body or to a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was requested to abate the condition.

(e) If the county board of health, city board of health or district board of health in whose jurisdiction the incorporated city is located has adopted a definition of garbage, use the definition of garbage adopted by the county board of health, city board of health or district board of health, as applicable.

3. The governing body or its designee may direct the city to abate the condition on the property and may recover the amount expended by the city for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on the property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant

to subsection 1 and has failed to abate the condition within the period specified in the order; or

(c) The governing body or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means ~~[of]~~ ***for*** recovering money expended by the city to abate the condition ~~[,]~~ ***and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,*** the governing body may make the expense ***and civil penalties*** a special assessment against the property upon which the condition is or was located. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the condition or the date specified in the order of the governing body or court by which the owner must abate the condition, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section, "dangerous structure or condition" means a structure or condition that may cause injury to or endanger the health, life, property, safety or welfare of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 268.413 with respect to minimum levels of health, maintenance or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the governing body of a city, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Sec. 2. NRS 268.4124 is hereby amended to read as follows:

268.4124 1. The governing body of a city may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the city;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the city and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by the city police or other person authorized to issue a citation, of the existence on the property of two or more nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the city attorney for legal action. ~~[; and]~~

(2) ***If the nuisance is not an immediate danger to the public health, safety and welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the nuisance.***

(3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will recover money expended for labor and materials used to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and emergency action is necessary to avoid immediate threat to the public health, welfare or safety, the court shall order the city to secure and close the property for a period not to exceed 1 year or until the nuisance is abated, whichever occurs first, and may:

(a) Impose a civil penalty *:*

(1) If the property is nonresidential property, of not more than ~~*[$1,000]*~~ ***$750 per day; or***

(2) If the property is residential property, of not more than $500 per day **,**

➥ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the city for the cost incurred by the city in abating the condition;

(c) If applicable, order the owner to pay reasonable expenses for the relocation of any tenants who are affected by the chronic nuisance; and

(d) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the chronic nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the governing body may make the expense ***and civil penalties*** a special assessment against the property

upon which the chronic nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 30-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 30-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) ***"Commercial real estate" has the meaning ascribed to it in NRS 645.8711.***

(c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(c)]~~ ***(d)*** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(d)]~~ ***(e)*** "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Excessive noise and violations of curfew; or

(4) Any other activity, behavior or conduct defined by the governing body to constitute a public nuisance.

~~[(e)]~~ ***(f)*** "Person associated with the property" means a person who, on the occasion of a nuisance activity, has:

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

➥ a property or a person present on the property.

~~*[(f)]*~~ ***(g) "Residential property" means:***

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) 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.

➥ The term does not include commercial real estate.

Sec. 3. NRS 268.4126 is hereby amended to read as follows:

268.4126 1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to seek:

(a) The abatement of an abandoned nuisance that is located or occurring within the city;

(b) The repair, safeguarding or demolition of any structure or property where an abandoned nuisance is located or occurring within the city;

(c) Authorization for the city to take the actions described in paragraphs (a) and (b);

(d) Civil penalties against an owner of any structure or property where an abandoned nuisance is located or occurring within the city; and

(e) Any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by a person authorized by the city to issue a citation, of the existence on the property of

two or more abandoned nuisance activities and the date by which the owner must abate the abandoned nuisance to prevent the matter from being submitted to the city attorney for legal action ***.*** ~~[; and]~~

(2) ***If the abandoned nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the abandoned nuisance.***

(3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the abandoned nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will, if the owner fails to abate the abandoned nuisance, recover money expended for labor and materials used to:

(1) Abate the abandoned nuisance on the property; or

(2) If applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring.

3. If the court finds that an abandoned nuisance exists, the court shall order the owner of the property to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring, and may:

(a) ***Impose a civil penalty:***

(1) If the property is nonresidential property, of not more than ~~*[$1,000]*~~ ***$750 per day; or***

(2) If the property is residential property, of not more than $500 per day,

➥ for each day that the abandoned nuisance was not abated after the date specified in the notice by which the owner was required to abate the abandoned nuisance;

(b) If applicable, order the owner of the property to pay reasonable expenses for the relocation of any tenants who occupy the property legally and who are affected by the abandoned nuisance;

~~[(b)]~~ ***(c)*** If the owner of the property fails to comply with the order:

(1) Direct the city to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring; and

(2) Order the owner of the property to pay the city for the cost incurred by the city in taking the actions described in subparagraph (1); and

~~[(c)]~~ ***(d)*** Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the abandoned nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the governing body of the city may make the expense ***and civil penalties*** a special assessment against

the property upon which the abandoned nuisance is or was located or occurring. The special assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the governing body unless:***

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the abandoned nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the abandoned nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section:

(a) An "abandoned nuisance" exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 12 months or more and:

(1) Two or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in two or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) "Abandoned nuisance activity" means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, abandoned materials, inoperable vehicles or junk appliances;

(3) The presence of unsanitary conditions or hazardous materials;

(4) The lack of adequate lighting, fencing or security;

(5) Indicia of the presence or activities of gangs;

(6) Environmental hazards;

(7) Violations of city codes, ordinances or other adopted policy; or

(8) Any other activity, behavior, conduct or condition defined by the governing body of the city to constitute a threat to the public health, safety or welfare of the residents of or visitors to the city.

(c) ***"Commercial real estate" has the meaning ascribed to it in NRS 645.8711.***

(d) "Person associated with the property" means a person who, on the occasion of an abandoned nuisance activity, has:

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit,

➥ a property or a person present on the property.

~~*[(d)]*~~ ***(e) "Residential property" means:***

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) 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.

➥ The term does not include commercial real estate.

Sec. 4. NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360 or 244.3605, a board of county commissioners may, by ordinance, provide for a reasonable means to secure or summarily abate a dangerous structure or condition that at least three persons who enforce building codes, housing codes, zoning ordinances or local health regulations, or who are members of a local law enforcement agency or fire department, determine in a signed, written statement to be an imminent danger.

2. Except as otherwise provided in subsection 3, the owner of the property on which the structure or condition is located must be given reasonable written notice that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

➥ before the structure or condition is so secured. The notice must state clearly that the owner of the property may challenge the action to secure or summarily abate the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.

3. If it is determined in the signed, written statement provided pursuant to subsection 1 that the structure or condition is an imminent danger and the result of the imminent danger is likely to occur before the notice and an opportunity to challenge the action can be provided pursuant to subsection 2, then the structure or condition which poses such an imminent danger that presents an immediate hazard may be summarily abated. A structure or condition summarily abated pursuant to this section may only be abated to the extent necessary to remove the imminent danger that presents an immediate hazard. The owner of the structure or condition which is summarily abated must be given written notice of the abatement after its completion. The notice must state clearly that the owner of the property may seek judicial review of the summary abatement and must provide an address

and telephone number at which the owner may obtain additional information concerning the summary abatement.

4. The costs of securing or summarily abating the structure or condition may be made a special assessment against the real property on which the structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section:

(a) "Dangerous structure or condition" has the meaning ascribed to it in subsection ~~[5]~~ ***6*** of NRS 244.3605.

(b) "Imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the life, safety, health or property of:

(1) The occupants, if any, of the real property on which the structure or condition is located; or

(2) The general public.

Sec. 5. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on the owner's property of nuisance activities and the date by which the owner must abate the condition to prevent the matter from being submitted to the district attorney for legal action**.** ~~[, and]~~

(2) ***If the chronic nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the chronic nuisance.***

(3) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and action is necessary to avoid serious threat to the public welfare or the safety or health of the occupants of the property, the court may order the county to secure and close the property until the nuisance is abated and may:

(a) Impose a civil penalty ***:***

(1) If the property is nonresidential property, of not more than ~~*[$1,000]*~~ ***$750 per day; or***

(2) If the property is residential property, of not more than $500 per day,

➥ for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for the collection of civil penalties imposed pursuant to subsection 3,*** the board may make the expense ***and civil penalties*** a special assessment against the property upon which the chronic nuisance is located or occurring. The special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. ***Any civil penalties that have not been collected from the owner of the property may not be made a special assessment against the property pursuant to subsection 4 by the board unless:***

(a) At least 12 months have elapsed after the date specified in the order of the court by which the owner must abate the chronic nuisance or, if the owner appeals that order, the date specified in the order of the appellate court by which the owner must abate the chronic nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section:

(a) A "chronic nuisance" exists:

(1) When three or more nuisance activities exist or have occurred during any 90-day period on the property.

(2) When a person associated with the property has engaged in three or more nuisance activities during any 90-day period on the property or within 100 feet of the property.

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS.

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor or controlled substance analog.

(5) When a building or place was used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog and:

(I) The building or place has not been deemed safe for habitation by a governmental entity; or

(II) All materials or substances involving the controlled substance, immediate precursor or controlled substance analog have not been removed from or remediated on the building or place by an entity certified or licensed to do so within 180 days after the building or place is no longer used for the purpose of unlawfully manufacturing a controlled substance, immediate precursor or controlled substance analog.

(b) ***"Commercial real estate" has the meaning ascribed to it in NRS 645.8711.***

(c) "Controlled substance analog" has the meaning ascribed to it in NRS 453.043.

~~[(c)]~~ ***(d)*** "Immediate precursor" has the meaning ascribed to it in NRS 453.086.

~~[(d)]~~ ***(e)*** "Nuisance activity" means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;

(4) Excessive noise and violations of curfew; or

(5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

~~[(e)]~~ ***(f)*** "Person associated with the property" means:

(1) The owner of the property;

(2) The manager or assistant manager of the property;

(3) The tenant of the property; or

(4) A person who, on the occasion of a nuisance activity, has:

(I) Entered, patronized or visited;

(II) Attempted to enter, patronize or visit; or

(III) Waited to enter, patronize or visit,

➥ the property or a person present on the property.

~~[(f)]~~ ***(g) "Residential property" means:***

(1) Improved real estate that consists of not more than four residential units;

(2) Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or

(3) 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.

➥ ***The term does not include commercial real estate.***

Sec. 6. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may, to abate public nuisances, adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or eliminate a dangerous structure or condition;

(b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS;

(c) Clear weeds and noxious plant growth; or

(d) Repair, clear, correct, rectify, safeguard or eliminate any other public nuisance as defined in the ordinance adopted pursuant to this section,

➥ to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on the owner's property of a public nuisance set forth in subsection 1 and the date by which the owner must abate the public nuisance ***.*** ~~[; and]~~

(2) ***If the public nuisance is not an immediate danger to the public health, safety or welfare and was caused by the criminal activity of a person other than the owner, afforded a minimum of 30 days to abate the public nuisance.***

(3) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision either to the board or to a court of competent jurisdiction, as determined by the ordinance adopted pursuant to subsection 1.

(b) Provide that the date specified in the notice by which the owner must abate the public nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended to abate the public nuisance on the property if the owner fails to abate the public nuisance.

(d) Provide for civil penalties for each day that the owner did not abate the public nuisance after the date specified in the notice by which the owner was required to abate the public nuisance.

3. The county may abate the public nuisance on the property and may recover the amount expended by the county for labor and materials used to abate the public nuisance if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance on the owner's property within the period specified in the notice;

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the public nuisance within the period specified in the order; or

(c) The board or a court of competent jurisdiction has denied the appeal of the owner and the owner has failed to abate the public nuisance within the period specified in the order.

4. In addition to any other reasonable means ~~[of]~~ ***for*** recovering money expended by the county to abate the public nuisance ~~[,]~~ ***and, except as otherwise provided in subsection 5, for collecting civil penalties imposed pursuant to the ordinance adopted pursuant to subsection 1,*** the expense ~~[is]~~ ***and civil penalties are*** a special assessment against the property upon which the public nuisance is located, and this special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. ***Any civil penalties that have not been collected from the owner of the property are not a special assessment against the property pursuant to subsection 4 unless:***

(a) At least 12 months have elapsed after the date specified in the notice by which the owner must abate the public nuisance or the date specified in the order of the board or court by which the owner must abate the public nuisance, whichever is later;

(b) The owner has been billed, served or otherwise notified that the civil penalties are due; and

(c) The amount of the uncollected civil penalties is more than $5,000.

6. As used in this section, "dangerous structure or condition" means a structure or condition that is a public nuisance which may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated by the board as a public nuisance in the ordinance, rule or regulation.

Sec. 7. 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. 748 to Assembly Bill No. 360 provides that a local ordinance must state that if the nuisance or condition is not an immediate danger to the public health, safety, and welfare, and was caused by criminal activity of a person other than the property owner, the owner must be given at least 30 days to abate the nuisance. It reduces the proposed civil penalty for non-residential property from $1,000 per day to $750 per day. The amendment clarifies, for

the purposes of the bill that, "Residential property" does not include commercial real estate; and provides that the term "Commercial real estate" has the same meaning set forth in NRS 645.8711.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 398.

Bill read second time.

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

Amendment No. 619.

"SUMMARY—Revises provisions relating to commercial tenancies. (BDR 10-664)"

"AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; ~~[establishing requirements for accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances;]~~ setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 14 of this bill prohibits a landlord from interfering in certain manners with a tenant's use of commercial premises.

Section 15 of this bill establishes a process for a tenant to recover possession of commercial premises from which a landlord has locked the tenant out.

Section 15.5 of this bill provides that the justice court has jurisdiction over any civil action or proceeding concerning the exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages. Section 15.5 also provides that certain provisions of existing law governing actions for the recovery of a debt secured by a mortgage or other lien and the doctrines of res judicata and collateral estoppel do not apply to: (1) a claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or (2) an action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.

Sections 16 and 27 of this bill repeal and reenact provisions authorizing a landlord to dispose of abandoned personal property left on commercial premises by a tenant under certain circumstances.

~~[Sections 17-23 of this bill set forth requirements for the accounting for, refund of and charges against security deposits.~~

~~Section 24 of this bill prohibits a landlord from charging a tenant for rent or physical damages to commercial premises except under certain circumstances.]~~

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

Section 1. Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 24, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 24, inclusive, of this act, 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. ***"Abandoned personal property" means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of section 16 of this act.***

Sec. 4. ***"Action" includes a counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.***

Sec. 4.5. ***"Commercial premises" means any real property other than premises as defined in NRS 118A.140.***

Sec. 5. ***"Court" means the district court, justice court or other court of competent jurisdiction situated in the county or township wherein the commercial premises are located.***

Sec. 6. ***"Landlord" means a person who provides commercial premises for use by another person pursuant to a rental agreement.***

Sec. 7. ***"Owner" means one or more persons, jointly or severally, in whom is vested:***

1. All or part of the legal title to a commercial premises, except a trustee under a deed of trust who is not in possession of the commercial premises; or

2. All or part of the beneficial ownership, and a right to present use and enjoyment of the commercial premises.

Sec. 8. ***"Person" includes a government, a governmental agency and a political subdivision of a government.***

Sec. 9. ***"Rent" means all periodic payments to be made to the landlord for occupancy of commercial premises, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.***

Sec. 10. ***"Rental agreement" means an agreement to lease or sublease commercial premises for a term less than life which provides for the periodic payment of rent.***

Sec. 11. ~~[*"Security deposit" means any advance of money, other than a deposit for a rental application or a payment in advance of rent, that is intended primarily to secure performance under a rental agreement.*]~~ **(Deleted by amendment.)**

Sec. 12. ***"Tenant" means a person who has the right to possess commercial premises pursuant to a rental agreement.***

Sec. 13. ***The provisions of sections 2 to 24, inclusive, of this act apply only to the relationship between landlords and tenants of commercial premises.***

Sec. 14. ***1. A landlord or a landlord's agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from construction, bona fide repairs or an emergency.***

2. A landlord may not remove:

(a) A door, window or attic hatchway cover;

(b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or

(c) Furniture, fixtures or appliances furnished by the landlord,

➥ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.

3. A landlord may not intentionally prevent a tenant from entering the commercial premises except by judicial process unless the exclusion results from:

(a) Construction, bona fide repairs or an emergency;

(b) Removing the contents of commercial premises abandoned by a tenant; or

(c) Changing the door locks of a tenant who is delinquent in paying at least part of the rent.

4. If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must , for a period of not less than 5 business days, place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.

5. If a landlord or a landlord's agent violates this section, the tenant may:

(a) Recover possession of the commercial premises ; ~~[*or terminate the rental agreement;*]~~ *and*

(b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or $500, whichever is greater,

reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

6. A rental agreement supersedes this section to the extent of any conflict.

Sec. 15. ***1. If a landlord locks a tenant out of commercial premises that ~~[is]~~ are subject to a rental agreement in violation of section 14 of this act, the tenant may recover possession of the commercial premises as provided by this section.***

2. A tenant must file with the justice court of the township in which the commercial premises are located ~~[or with the district court of the county in which the commercial premises are located, whichever has jurisdiction over the matter,]~~ a verified complaint for reentry, specifying the facts of the alleged unlawful lockout by the landlord or the landlord's agent. The tenant must also state orally under oath to the court the facts of the alleged unlawful lockout.

3. If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court :

(a) Shall issue an order requiring the tenant to post a bond in an amount equal to 1 month of rent; and

(b) Upon the posting of the bond, may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.

4. A temporary writ of restitution must be served on the landlord or the landlord's agent in the same manner as a writ of restitution in a forcible detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.

5. ~~[A landlord is entitled to]~~ The court shall hold a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the ~~[right to a hearing.]~~ pendency of the matter and the date of the hearing. The hearing must be held not earlier than the first judicial day and not later than the ~~[seventh]~~ fifth judicial day after the date on which the ~~[landlord requests a hearing.]~~ court issues the temporary writ of restitution.

6. ~~[If a landlord fails to request a hearing on a tenant's verified complaint for reentry before the eighth day after the date of service of the temporary writ of restitution on the landlord under subsection 4, a judgment for court costs may be rendered against the landlord.~~

~~7.]~~ A party may appeal from the court's judgment at the hearing on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

~~[8.]~~ 7. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.

~~[9.]~~ 8. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ,

the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS. ~~*[If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the reentry action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the court shall issue an order to show cause, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the court finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the court may commit the person to jail without bail until the person purges himself or herself of the contempt in a manner and form as the court may direct. If the person disobeyed the writ before receiving the order to show cause but has complied with the writ after receiving the order, the court may find the person in contempt and punish the person under chapter 22 of NRS.*~~

~~*— 10.]*~~ ***9. This section does not affect a tenant's right to pursue a separate cause of action under section 14 of this act.***

~~*[11.]*~~ ***10. If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or $500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.***

~~*[12. The fee for filing a verified complaint for reentry is the same as that for filing a civil action in the court in which the verified complaint is filed. The court may defer payment of the tenant's filing fees and service costs for the verified complaint for reentry and writ of restitution. Court costs may be waived only if the tenant files an affidavit under NRS 12.015.*~~

~~*— 13.]*~~ ***11. This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.***

Sec. 15.5. 1. Except as otherwise provided in subsection 2, the justice court has jurisdiction over any civil action or proceeding concerning the exclusion of a tenant from commercial premises or the summary eviction of a tenant from commercial premises in which no party is seeking damages.

2. If a landlord combines an action for summary eviction of a tenant from commercial premises with a claim to recover contractual damages, jurisdiction over the claims rests with the court which has jurisdiction over the amount in controversy.

3. The provisions of NRS 40.430 and the doctrines of res judicata and collateral estoppel do not apply to:

(a) A claim by a landlord for contractual damages which is brought subsequent to an action by the landlord for the summary eviction of a tenant from commercial premises; or

(b) An action by a landlord for the summary eviction of a tenant from commercial premises which is brought subsequent to a claim by the landlord for contractual damages.

Sec. 16. ***1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:***

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.

4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 17. ~~[*1. A landlord shall refund a security deposit to a tenant not later than 60 days after the date on which the tenant surrenders the commercial premises and provides notice to the landlord or the landlord's agent of the mailing address of the tenant pursuant to section 21 of this act.*~~

~~2. A claim of a tenant to a security deposit to which the tenant is entitled takes priority over the claim of any creditor of the landlord, including a trustee in bankruptcy.]~~ **(Deleted by amendment.)**

Sec. 18. ~~[1. Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is legally liable under the rental agreement or damages and charges that result from a breach of the rental agreement.~~

~~2. A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, "normal wear and tear" means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.~~

~~3. If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:~~

~~(a) The tenant owes rent when the tenant surrenders possession of the commercial premises; and~~

~~(b) No controversy exists concerning the amount of rent owed.]~~ **(Deleted by amendment.)**

Sec. 19. ~~[1. Except as otherwise provided in subsection 4, if an owner's interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.~~

~~2. Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.~~

~~3. The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:~~

~~(a) The amount provided in the tenant's rental agreement; or~~

~~(b) The amount provided in an estoppel certificate prepared by the owner at the time the rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.~~

~~4. Subsection 1 does not apply to a person who acquires title to the premises by foreclosure.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[*A landlord shall keep accurate records of all security deposits.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~[*1. A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.*~~

~~*2. A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.]*~~ **(Deleted by amendment.)**

Sec. 22. ~~[*1. A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.*~~

~~*2. A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.]*~~ **(Deleted by amendment.)**

Sec. 23. ~~[*1. A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of $100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.*~~

~~*2. A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:*~~

~~*(a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and*~~

~~*(b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.*~~

~~*3. In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.*~~

~~*4. Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.]*~~ **(Deleted by amendment.)**

Sec. 24. ~~[*1. A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the rental agreement, an exhibit or attachment that is part of the rental agreement or an amendment to the rental agreement.*~~

~~*2. This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.]*~~ **(Deleted by amendment.)**

Sec. 25. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~[118.207,]~~ ***118.205,*** inclusive, unless the context otherwise requires:

1. ~~["Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:~~

~~(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.]~~ "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~[3.]~~ ***2.*** "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~[4.]~~ ***3.*** "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 26. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the

request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~[118.207 or]~~ 118A.460 ***or section 16 of this act*** for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~[118.207 or]~~ 118A.460 ***or section 16 of this act*** and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 26.5. **NRS 40.430 is hereby amended to read as follows:**

40.430 1. Except in cases where a person proceeds under subsection 2 of NRS 40.495 or subsection 1 of NRS 40.512**,** ***and except as otherwise provided in section 15.5 of this act,*** there may be but one action for the recovery of any debt, or for the enforcement of any right secured by a mortgage or other lien upon real estate. That action must be in accordance with the provisions of NRS 40.430 to 40.459, inclusive. In that action, the judgment must be rendered for the amount found due the plaintiff, and the court, by its decree or judgment, may direct a sale of the encumbered property, or such part thereof as is necessary, and apply the proceeds of the sale as provided in NRS 40.462.

2. This section must be construed to permit a secured creditor to realize upon the collateral for a debt or other obligation agreed upon by the debtor and creditor when the debt or other obligation was incurred.

3. At any time not later than 5 business days before the date of sale directed by the court, if the deficiency resulting in the action for the recovery of the debt has arisen by failure to make a payment required by the mortgage or other lien, the deficiency may be made good by payment of the deficient sum and by payment of any costs, fees and expenses incident to making the deficiency good. If a deficiency is made good pursuant to this subsection, the sale may not occur.

4. A sale directed by the court pursuant to subsection 1 must be conducted in the same manner as the sale of real property upon execution, by the sheriff of the county in which the encumbered land is situated, and if the

encumbered land is situated in two or more counties, the court shall direct the sheriff of one of the counties to conduct the sale with like proceedings and effect as if the whole of the encumbered land were situated in that county.

5. Within 30 days after a sale of property is conducted pursuant to this section, the sheriff who conducted the sale shall record the sale of the property in the office of the county recorder of the county in which the property is located.

6. As used in this section, an "action" does not include any act or proceeding:

(a) To appoint a receiver for, or obtain possession of, any real or personal collateral for the debt or as provided in NRS 32.015.

(b) To enforce a security interest in, or the assignment of, any rents, issues, profits or other income of any real or personal property.

(c) To enforce a mortgage or other lien upon any real or personal collateral located outside of the State which does not, except as required under the laws of that jurisdiction, result in a personal judgment against the debtor.

(d) For the recovery of damages arising from the commission of a tort, including a recovery under NRS 40.750, or the recovery of any declaratory or equitable relief.

(e) For the exercise of a power of sale pursuant to NRS 107.080.

(f) For the exercise of any right or remedy authorized by chapter 104 of NRS or by the Uniform Commercial Code as enacted in any other state.

(g) For the exercise of any right to set off, or to enforce a pledge in, a deposit account pursuant to a written agreement or pledge.

(h) To draw under a letter of credit.

(i) To enforce an agreement with a surety or guarantor if enforcement of the mortgage or other lien has been automatically stayed pursuant to 11 U.S.C. § 362 or pursuant to an order of a federal bankruptcy court under any other provision of the United States Bankruptcy Code for not less than 120 days following the mailing of notice to the surety or guarantor pursuant to subsection 1 of NRS 107.095.

(j) To collect any debt, or enforce any right, secured by a mortgage or other lien on real property if the property has been sold to a person other than the creditor to satisfy, in whole or in part, a debt or other right secured by a senior mortgage or other senior lien on the property.

(k) Relating to any proceeding in bankruptcy, including the filing of a proof of claim, seeking relief from an automatic stay and any other action to determine the amount or validity of a debt.

(l) For filing a claim pursuant to chapter 147 of NRS or to enforce such a claim which has been disallowed.

(m) Which does not include the collection of the debt or realization of the collateral securing the debt.

(n) Pursuant to NRS 40.507 or 40.508.

(o) Which is exempted from the provisions of this section by specific statute.

(p) To recover costs of suit, costs and expenses of sale, attorneys' fees and other incidental relief in connection with any action authorized by this subsection.

Sec. 27. NRS 118.207 is hereby repealed.

TEXT OF REPEALED SECTION

118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) The landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➥ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized

representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Senator Breeden moved the adoption of the amendment.

Remarks by Senators Breeden, Hardy and Brower.

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

SENATOR BREEDEN:

Amendment No. 619 to Assembly Bill No. 398 deletes provisions in the bill relating to security deposits for commercial tenancies.

The amendment specifies when a justice court has jurisdiction over a commercial premises eviction.

It also makes changes in the procedural requirements for initiating commercial evictions and for processing them in the courts.

SENATOR HARDY:

Thank you, Mr. President. On page 2 of the amendment, line 10 has a Latin phrase "res judicata and collateral estoppel." I would like those terms clarified.

SENATOR BROWER:

The doctrines of res judicata and collateral estoppel essentially refer to if a matter is fully litigated in a case in favor of one party and against another party, then it cannot be relitigated in another case involved with the same parties or one of the parties depending on the circumstances.

Res judicata means if it has been decided once, it cannot be relitigated again. Collateral estoppel is similar to res judicata but usually refers to a particular issue as opposed to an entire case.

Amendment adopted.

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

Amendment No. 778.

"SUMMARY—Revises provisions relating to commercial tenancies. (BDR 10-664)"

"AN ACT relating to commercial tenancies; prohibiting a landlord's interference with a tenant's use of commercial premises under certain circumstances; establishing a procedure for a tenant to recover possession of commercial premises following a lockout; establishing requirements for

accounting for, charges against and refund of security deposits; prohibiting a landlord from assessing charges against a tenant except under certain circumstances; setting forth the circumstances under which a tenant can be presumed to have abandoned commercial premises; repealing and reenacting provisions relating to the disposal of personal property abandoned by a tenant on commercial premises; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 14 of this bill prohibits a landlord from interfering in certain manners with a tenant's use of commercial premises.

Section 15 of this bill establishes a process for a tenant to recover possession of commercial premises from which a landlord has locked the tenant out.

Sections 16 and 27 of this bill repeal and reenact provisions authorizing a landlord to dispose of abandoned personal property left on commercial premises by a tenant under certain circumstances.

Sections 17-23 of this bill set forth requirements for the accounting for, refund of and charges against security deposits.

Section 24 of this bill prohibits a landlord from charging a tenant for rent or physical damages to commercial premises except under certain circumstances.

Section 26.3 of this bill revises provisions governing the granting of a stay of execution to a tenant of commercial property who appeals an order of eviction by providing that the tenant may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.

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

Section 1. Title 10 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 24, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 24, inclusive, of this act, 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. ***"Abandoned personal property" means any personal property which is left unattended on commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has an ownership interest in the personal property within 14 days after the date on which the landlord mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by paragraph (a) of subsection 1 of section 16 of this act.***

Sec. 4. ***"Action" includes a counterclaim, crossclaim, third-party claim or any other proceeding in which rights are determined.***

Sec. 4.5. *"Commercial premises" means any real property other than premises as defined in NRS 118A.140.*

Sec. 5. *"Court" means the district court, justice court or other court of competent jurisdiction situated in the county or township wherein the commercial premises are located.*

Sec. 6. *"Landlord" means a person who provides commercial premises for use by another person pursuant to a rental agreement.*

Sec. 7. *"Owner" means one or more persons, jointly or severally, in whom is vested:*

1. All or part of the legal title to a commercial premises, except a trustee under a deed of trust who is not in possession of the commercial premises; or

2. All or part of the beneficial ownership, and a right to present use and enjoyment of the commercial premises.

Sec. 8. *"Person" includes a government, a governmental agency and a political subdivision of a government.*

Sec. 9. *"Rent" means all periodic payments to be made to the landlord for occupancy of commercial premises, including, without limitation, all reasonable and actual late fees set forth in the rental agreement.*

Sec. 10. *"Rental agreement" means an agreement to lease or sublease commercial premises for a term less than life which provides for the periodic payment of rent.*

Sec. 11. *"Security deposit" means any advance of money, other than a deposit for a rental application or a payment in advance of rent, that is intended primarily to secure performance under a rental agreement.*

Sec. 12. *"Tenant" means a person who has the right to possess commercial premises pursuant to a rental agreement.*

Sec. 13. *The provisions of sections 2 to 24, inclusive, of this act apply only to the relationship between landlords and tenants of commercial premises.*

Sec. 14. *1. A landlord or a landlord's agent may not interrupt or cause the interruption of utility service paid for directly to the utility company by a tenant unless the interruption results from construction, bona fide repairs or an emergency.*

2. A landlord may not remove:

(a) A door, window or attic hatchway cover;

(b) A lock, latch, hinge, hinge pin, doorknob or other mechanism connected to a door, window or attic hatchway cover; or

(c) Furniture, fixtures or appliances furnished by the landlord,

➥ from commercial premises unless the landlord removes the item for a bona fide repair or replacement. If a landlord removes any of the items listed in this subsection for a bona fide repair or replacement, the repair or replacement must be promptly performed.

3. A landlord may not intentionally prevent a tenant from entering the commercial premises except by judicial process unless the exclusion results from:

(a) Construction, bona fide repairs or an emergency;

(b) Removing the contents of commercial premises abandoned by a tenant; or

(c) Changing the door locks of a tenant who is delinquent in paying at least part of the rent.

4. If a landlord or a landlord's agent changes the door lock of commercial premises leased to a tenant who is delinquent in paying rent, the landlord or agent must place a written notice on the front door of the commercial premises stating the name and the address or telephone number of the person or company from which the new key may be obtained. The new key is required to be provided only during the regular business hours of the tenant and only if the tenant pays the delinquent rent.

5. If a landlord or a landlord's agent violates this section, the tenant may:

(a) Recover possession of the commercial premises or terminate the rental agreement; and

(b) Recover from the landlord an amount equal to the sum of the tenant's actual damages, one month's rent or $500, whichever is greater, reasonable attorney's fees and court costs, less any delinquent rents or other sums for which the tenant is liable to the landlord.

6. A rental agreement supersedes this section to the extent of any conflict.

Sec. 15. *1. If a landlord locks a tenant out of commercial premises that ~~[is]~~ are subject to a rental agreement in violation of section 14 of this act, the tenant may recover possession of the commercial premises as provided by this section.*

2. A tenant must file with the justice court of the township in which the commercial premises are located or with the district court of the county in which the commercial premises are located, whichever has jurisdiction over the matter, a verified complaint for reentry, specifying the facts of the alleged unlawful lockout by the landlord or the landlord's agent. The tenant must also state orally under oath to the court the facts of the alleged unlawful lockout.

3. If a tenant has complied with subsection 2 and if the court reasonably believes an unlawful lockout may have occurred, the court may issue, ex parte, a temporary writ of restitution that entitles the tenant to immediate and temporary possession of the commercial premises, pending a final hearing on the tenant's verified complaint for reentry.

4. A temporary writ of restitution must be served on the landlord or the landlord's agent in the same manner as a writ of restitution in a forcible

detainer action. A sheriff or constable may use reasonable force in executing a temporary writ of restitution under this subsection.

5. A landlord is entitled to a hearing on a tenant's verified complaint for reentry. A temporary writ of restitution must notify the landlord of the right to a hearing. The hearing must be held not earlier than the first day and not later than the seventh day after the date the landlord requests a hearing.

6. If a landlord fails to request a hearing on a tenant's verified complaint for reentry before the eighth day after the date of service of the temporary writ of restitution on the landlord under subsection 4, a judgment for court costs may be rendered against the landlord.

7. A party may appeal from the court's judgment at the hearing on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

8. If a writ of restitution is issued, the writ supersedes a temporary writ of restitution.

9. If the landlord or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the landlord or the person on whom the writ was served, under chapter 22 of NRS. If the writ is disobeyed, the tenant or the tenant's attorney may file in the court in which the reentry action is pending an affidavit stating the name of the person who has disobeyed the writ and describing the acts or omissions constituting the disobedience. On receipt of an affidavit, the court shall issue an order to show cause, directing the person to appear on a designated date and show cause why the person should not be adjudged in contempt of court. If the court finds, after considering the evidence at the hearing, that the person has directly or indirectly disobeyed the writ, the court may commit the person to jail without bail until the person purges himself or herself of the contempt in a manner and form as the court may direct. If the person disobeyed the writ before receiving the order to show cause but has complied with the writ after receiving the order, the court may find the person in contempt and punish the person under chapter 22 of NRS.

10. This section does not affect a tenant's right to pursue a separate cause of action under section 14 of this act.

11. If a tenant in bad faith files a sworn complaint for reentry resulting in a writ of restitution being served on the landlord or landlord's agent, the landlord may in a separate cause of action recover from the tenant an amount equal to actual damages, one month's rent or $500, whichever is greater, reasonable attorney's fees, and costs of court, less any sums for which the landlord is liable to the tenant.

12. The fee for filing a verified complaint for reentry is the same as that for filing a civil action in the court in which the verified complaint is filed. The court may defer payment of the tenant's filing fees and service

costs for the verified complaint for reentry and writ of restitution. Court costs may be waived only if the tenant files an affidavit under NRS 12.015.

13. This section does not affect the rights of a landlord or tenant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

Sec. 16. *1. Except as otherwise provided in subsection 3, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:*

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. A tenant of commercial premises is presumed to have abandoned the premises if:

(a) Goods, equipment or other property, in an amount substantial enough to indicate a probable intent to abandon the commercial premises, is being or has been removed from the commercial premises; and

(b) The removal is not within the normal course of business of the tenant.

3. If a written agreement between a landlord and a person who has an ownership interest in any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the person with respect to the removal and disposal of the abandoned personal property.

4. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 17. *1. A landlord shall refund a security deposit to a tenant not later than 60 days after the date on which the tenant surrenders the commercial premises and provides notice to the landlord or the landlord's agent of the mailing address of the tenant pursuant to section 21 of this act.*

2. A claim of a tenant to a security deposit to which the tenant is entitled takes priority over the claim of any creditor of the landlord, including a trustee in bankruptcy.

Sec. 18. *1. Before returning a security deposit, a landlord may deduct from the deposit damages and charges for which the tenant is legally liable under the rental agreement or damages and charges that result from a breach of the rental agreement.*

2. A landlord may not retain any portion of a security deposit to cover normal wear and tear. For the purposes of this subsection, "normal wear and tear" means deterioration that results from the intended use of the commercial premises, including breakage or malfunction because of age or deteriorated condition, but the term does not include deterioration that results from negligence, carelessness, accident or abuse of the commercial premises, equipment, or chattels by the tenant or by a guest or invitee of the tenant.

3. If a landlord retains all or part of a security deposit under this section, the landlord shall give to the tenant the balance of the security deposit, if any, together with a written description and itemized list of all deductions. The landlord is not required to give the tenant a description and itemized list of deductions if:

(a) The tenant owes rent when the tenant surrenders possession of the commercial premises; and

(b) No controversy exists concerning the amount of rent owed.

Sec. 19. *1. Except as otherwise provided in subsection 4, if an owner's interest in commercial premises is terminated by sale, assignment, death, appointment of a receiver, bankruptcy or otherwise, the new owner is liable with respect to the security deposit pursuant to sections 2 to 24, inclusive, of this act from the date title to the premises is acquired, regardless of whether an acknowledgment is given to the tenant under subsection 2.*

2. Except as otherwise provided in subsection 1, a person who no longer owns an interest in the commercial premises remains liable for a security deposit received while the person was the owner until the new owner delivers to the tenant a signed statement acknowledging that the new owner has received and is responsible for the tenant's security deposit and specifying the exact dollar amount of the deposit.

3. The amount of a security deposit for which a new owner is liable pursuant to this section is the greater of:

(a) The amount provided in the tenant's rental agreement; or

(b) The amount provided in an estoppel certificate prepared by the owner at the time the rental agreement was executed or prepared by the new owner at the time the commercial premises is transferred.

4. Subsection 1 does not apply to a person who acquires title to the premises by foreclosure.

Sec. 20. *A landlord shall keep accurate records of all security deposits.*

Sec. 21. ***1. A landlord is not obligated to return a security deposit to a tenant or give the tenant a written description of damages and charges until the tenant provides to the landlord in writing a mailing address to which the security deposit or written description are to be sent.***

2. A tenant does not forfeit the right to a refund of a security deposit or the right to receive a description of damages and charges for failing to give a mailing address to the landlord.

Sec. 22. ***1. A tenant may not withhold payment of any portion of the last month's rent on grounds that a security deposit is security for unpaid rent.***

2. A tenant who violates this section is presumed to have acted in bad faith. A tenant who in bad faith violates this section is liable to the landlord for an amount equal to three times the rent wrongfully withheld and the landlord's reasonable attorney's fees in an action to recover the rent.

Sec. 23. ***1. A landlord who in bad faith retains a security deposit in violation of sections 2 to 24, inclusive, of this act is liable for an amount equal to the sum of $100, three times the portion of the deposit wrongfully withheld, and the tenant's reasonable attorney's fees incurred in an action to recover the deposit after the period prescribed for returning the deposit expires.***

2. A landlord who in bad faith does not provide a written description and itemized list of damages and charges in violation of sections 2 to 24, inclusive, of this act:

(a) Forfeits the right to withhold any portion of the security deposit or to bring suit against the tenant for damages to the commercial premises; and

(b) Is liable for the tenant's reasonable attorney's fees in an action to recover the deposit.

3. In an action brought by a tenant under sections 2 to 24, inclusive, of this act, the landlord has the burden of proving that the retention of any portion of a security deposit was reasonable.

4. Except as otherwise provided in subsection 1 of section 21 of this act, a landlord who fails to return a security deposit or to provide a written description and itemized list of deductions within 60 days after the date the tenant surrenders possession of the commercial premises is presumed to have acted in bad faith.

Sec. 24. ***1. A landlord may not assess a charge, excluding a charge for rent or physical damage to the commercial premises, to a tenant unless the amount of the charge or the method by which the charge is to be computed is stated in the rental agreement, an exhibit or attachment that is part of the rental agreement or an amendment to the rental agreement.***

2. This section does not affect the right of a landlord to assess a charge or obtain a remedy allowed under a statute or common law.

Sec. 25. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to ~~[118.207,]~~ ***118.205,*** inclusive, unless the context otherwise requires:

1. ~~[~~"Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:

~~(a) Mailed, by certified mail, return receipt requested, notice of the landlord's intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of NRS 118.207; or~~

~~(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of NRS 118.207.~~

~~2.]~~ "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~[3.]~~ ***2.*** "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~[4.]~~ ***3.*** "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 26. NRS 40.253 is hereby amended to read as follows:

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or the landlord's agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or the landlord's agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or the landlord's agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of

NRS 40.280. If the notice cannot be delivered in person, the landlord or the landlord's agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when the tenant took possession of the premises, that the landlord or the landlord's agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or the landlord's agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of the tenant's right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that the tenant has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or the landlord's agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or the landlord's agent may apply by affidavit of complaint for eviction to the justice court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. The court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or the landlord's agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or the landlord's agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the justice court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that there is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. If the court determines that there is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief, and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive. The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which the tenant may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS ~~[118.207 or]~~ 118A.460 ***or section 16 of this act*** for the inventory, moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS ~~[118.207 or]~~ 118A.460 ***or section 16 of this act*** and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or the landlord's agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 26.3. **NRS 40.385 is hereby amended to read as follows:**

40.385 Upon an appeal from an order entered pursuant to NRS 40.253:

1. Except as otherwise provided in this subsection, a stay of execution may be obtained by filing with the trial court a bond in the amount of $250 to cover the expected costs on appeal. ~~[In an action concerning a lease of commercial property or any other property for which the monthly rent exceeds $1,000, the court may, upon its own motion or that of a party, and upon a showing of good cause, order an additional bond to be posted to cover the expected costs on appeal.]~~ A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action***. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to Rule 8 of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of the unpaid rent claim of the landlord.***

2. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to NRS 40.253.

Sec. 27. NRS 118.207 is hereby repealed.

TEXT OF REPEALED SECTION

118.207 Disposal of personal property abandoned by tenant on commercial premises; notice; procedure by landlord; releasing property to tenant; limitation on landlord's liability.

1. Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions,

dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:

(a) The landlord may dispose of the abandoned personal property and recover his or her reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) The landlord has notified the tenant in writing of the landlord's intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was mailed to the tenant. The notice must be mailed, by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➥ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his or her authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

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. 778 to Assembly Bill No. 398 adds a provision governing the granting of a stay of execution to a tenant of a commercial property who appeals an order of eviction.

Amendments adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 459.

Bill read second time and ordered to third reading.

Assembly Bill No. 478.

Bill read second time and ordered to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 193.

The following Assembly amendment was read:

Amendment No. 568.

"SUMMARY—Makes various changes concerning the State Board of Cosmetology and persons and practices regulated by the Board. (BDR 54-637)"

"AN ACT relating to cosmetology; **revising certain provisions governing schools of cosmetology; establishing the procedures for the licensure of certain persons who engage in the practice of hair braiding and persons who operate an establishment for hair braiding;** revising provisions relating to the regulation of sanitary conditions; revising provisions relating to the licensure of various cosmetology professionals and cosmetological establishments; repealing a provision relating to the provision of a surety bond by a school of cosmetology; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Cosmetology to determine the qualifications of applicants for various licenses in cosmetology, requires the Board to license schools of cosmetology, and authorizes the Board to adopt regulations governing the sanitary conditions in cosmetological establishments, schools of cosmetology and in the practice of cosmetology. (NRS 644.090, 644.120)

~~[The]~~ **Section 6 of this bill: (1) prohibits a school of cosmetology from collecting the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology when the student enters into a contract with the school of cosmetology; (2) authorizes a school of cosmetology to collect certain periodic payments from students; and (3)**

requires a school of cosmetology to use the contract for enrollment that was submitted to and approved by the Board.

Sections 7-9 of this bill establish a new license as a hair braider and set forth the requirements, including passing certain examinations, that must be met before the Board may issue such a license to a person. Section 7 sets forth the requirements for obtaining such a license for persons who have not previously practiced hair braiding or who have practiced hair braiding in this State on certain relatives without accepting compensation. Section 8 sets forth the requirements for persons who have practiced hair braiding in another state. Section 9 sets forth the scope of the examinations that are required to obtain a license to practice hair braiding. Section 24 of this bill provides an exemption from the licensure requirements for a person who, without accepting compensation, practices hair braiding on a person who is related within the sixth degree of consanguinity.

Section 10 of this bill establishes a new license for persons who wish to operate an establishment for hair braiding and sets forth the requirements that must be met before the Board may issue such a license. Sections 11-16 of this bill set forth additional requirements governing an establishment for hair braiding, including, without limitation, requirements relating to the notice which must be provided to the Board concerning a change of ownership or location and requirements relating to the qualifications of the person who must supervise the operation of such an establishment.

Under existing law, the Board is also required to provide for the registration of any person who engages in the practice of threading, and is authorized to inspect any facility in which threading is conducted. (NRS 644.331) **Section ~~[1]~~ 22** of this bill authorizes the Board to include the practice of threading and any facility in which it is conducted in its regulations regarding sanitary conditions. **Sections ~~[2-8]~~ 26-31 and 35** of this bill add United States citizenship or the legal right to remain and work in the United States to the requirements for applicants seeking licensure by the Board.

Existing law requires that schools of cosmetology post with the Board a surety bond as part of licensure. (NRS 644.383) **Section ~~[10]~~ 43** of this bill repeals that requirement.

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

Section 1. **NRS 640C.100 is hereby amended to read as follows:**

640C.100 1. The provisions of this chapter do not apply to:

(a) A person licensed pursuant to chapter 630, 630A, 631, 632, 633, 634, 634A, 635, 640, 640A or 640B of NRS if the massage therapy is performed in the course of the practice for which the person is licensed.

(b) A person licensed as a barber or apprentice pursuant to chapter 643 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck

or skin within the permissible scope of practice for a barber or apprentice pursuant to that chapter.

(c) A person licensed or registered as an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to chapter 644 of NRS if the person is massaging, cleansing or stimulating the scalp, face, neck or skin within the permissible scope of practice for an aesthetician, ***hair designer, hair braider,*** cosmetologist or cosmetologist's apprentice pursuant to that chapter.

(d) A person who is an employee of an athletic department of any high school, college or university in this State and who, within the scope of that employment, practices massage therapy on athletes.

(e) Students enrolled in a school of massage therapy recognized by the Board.

(f) A person who practices massage therapy solely on members of his or her immediate family.

(g) A person who performs any activity in a licensed brothel.

2. Except as otherwise provided in subsection 3, the provisions of this chapter preempt the licensure and regulation of a massage therapist by a county, city or town, including, without limitation, conducting a criminal background investigation and examination of a massage therapist or applicant for a license to practice massage therapy.

3. The provisions of this chapter do not prohibit a county, city or town from requiring a massage therapist to obtain a license or permit to transact business within the jurisdiction of the county, city or town, if the license or permit is required of other persons, regardless of occupation or profession, who transact business within the jurisdiction of the county, city or town.

4. As used in this section, "immediate family" means persons who are related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

Sec. 2. **Chapter 644 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.**

Sec. 3. "Establishment for hair braiding" means any premises, mobile unit, building or part of a building where hair braiding is practiced, other than a cosmetological establishment.

Sec. 4. "Hair braider" means any person who engages in the practice of hair braiding.

Sec. 5. 1. "Hair braiding" means a natural form of hair manipulation by braiding, cornrowing, extending, lacing, locking, sewing, twisting, weaving or wrapping human hair, natural fibers, synthetic fibers and hair extensions. The practice may be performed by hand or by using simple braiding devices, including, without limitation, clips, combs, hairpins, scissors, needles and thread.

2. The term includes:

(a) Cleansing the scalp; and

(b) The making of customized wigs from natural hair, natural fibers, synthetic fibers and hair extensions.

3. The term does not include:

(a) The use of penetrating chemical hair treatments, chemical hair coloring agents, chemical hair straightening agents, chemical hair joining agents, permanent wave styles or chemical hair bleaching agents applied to growing human hair;

(b) The cutting or growing of human hair, except that the term includes the trimming of hair extensions or sewn weave-in extensions only as applicable to the braiding process; or

(c) Any other activity set forth in the definition of "cosmetologist" pursuant to NRS 644.023 other than the activities expressly set forth in subsections 1 and 2.

Sec. 6. 1. A school of cosmetology shall not:

(a) Collect the entire amount of the cost for a program at the school of cosmetology from a student of cosmetology at the time the student enters into a contract with the school of cosmetology; or

(b) Except for an initial payment of not more than 25 percent of the total amount of the cost for the program at the school, invoice or collect from a student a periodic payment toward the cost for the quarter of the program at the school of cosmetology until at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.

2. A school of cosmetology shall use the contract for the enrollment of a student in a program at the school of cosmetology that was submitted to and approved by the Board, including any revisions approved by the Board pursuant to subsection 3, to contract with the student of cosmetology. The approved contract must include, without limitation:

(a) A notice indicating that the school of cosmetology is not required to post a surety bond with the Board; and

(b) A provision indicating that the school of cosmetology is authorized to collect:

(1) Not more than 25 percent of the total amount of the cost for the program at the school of cosmetology from a student at the time the student enters into the contract with the school of cosmetology; and

(2) Additional periodic payments in increments of not more than 25 percent of the total amount of the cost for the program for each quarter of the program. This amount may be collected by the school of cosmetology when at least 75 percent of the instruction in the curriculum of the immediately preceding quarter of the program has been completed.

3. The school of cosmetology shall submit to the Board for its approval a notice detailing any revisions to the approved contract. The revisions must be approved by the Board before the school of cosmetology may use the revised contract. The revisions shall be deemed to be approved by the

Board if the revisions are not disapproved by the Board within 60 days after their submission to the Board.

4. The Board:

(a) Shall respond to any complaints with regard to a contract between a school of cosmetology and a student of cosmetology; and

(b) If the Board or its staff has reason to believe that a school of cosmetology has not complied with any provisions governing such a contract, may require the school of cosmetology to submit for review its current contract for the enrollment of a student or may conduct an inspection of the school of cosmetology.

Sec. 7. 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

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

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has not practiced hair braiding previously:

(1) Has completed a minimum of 250 hours of training and education as follows:

(I) Fifty hours concerning the laws of Nevada and the regulations of the Board relating to cosmetology;

(II) Seventy-five hours concerning infection control and sanitation;

(III) Seventy-five hours regarding the health of the scalp and the skin of the human body; and

(IV) Fifty hours of clinical practice; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in this State on a person who is related within the sixth degree of consanguinity without a license and without charging a fee:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year on such a relative; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 8. 1. The Board shall admit to examination as a hair braider, at any meeting of the Board held to conduct examinations, each person who has practiced hair braiding in another state, has applied to the Board in proper form and paid a fee of $200, and who:

(a) Is not less than 18 years of age.

(b) Is of good moral character.

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

(d) Has successfully completed the 10th grade in school or its equivalent and has submitted to the Board a notarized affidavit establishing the successful completion by the applicant of the 10th grade or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

(e) If the person has practiced hair braiding in another state in accordance with a license issued in that other state:

(1) Has submitted to the Board proof of the license; and

(2) Has passed the written tests described in section 9 of this act.

(f) If the person has practiced hair braiding in another state without a license and it is legal in that state to practice hair braiding without a license:

(1) Has submitted to the Board a signed affidavit stating that the person has practiced hair braiding for at least 1 year; and

(2) Has passed the practical demonstration in hair braiding and written tests described in section 9 of this act.

2. The application submitted pursuant to subsection 1 must be accompanied by:

(a) Two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

(b) A copy of one of the following documents as proof of the age of the applicant:

(1) A driver's license or identification card issued to the applicant by this State or another state, the District of Columbia or any territory of the United States;

(2) The birth certificate of the applicant;

(3) The current passport issued to the applicant; or

(4) A voter registration card issued to the applicant pursuant to NRS 293.517.

Sec. 9. 1. The examination for licensure as a hair braider pursuant to paragraph (e) of subsection 1 of section 8 of this act must include:

(a) A written test on antisepsis, sterilization and sanitation; and

(b) A written test on the laws of Nevada and the regulations of the Board relating to cosmetology.

2. The examination for licensure as a hair braider pursuant to section 7 or paragraph (f) of subsection 1 of section 8 of this act must include:

(a) The written tests described in subsection 1; and

(b) A practical demonstration in hair braiding.

Sec. 10. 1. Any person wishing to operate an establishment for hair braiding must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain a detailed floor plan of the proposed establishment for hair braiding and proof of any particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker.

2. The applicant must submit the application accompanied by the required fees for inspection and licensing. After the applicant has submitted the application, the applicant must contact the Board and request a verbal review concerning the application to determine if the establishment for hair braiding complies with the requirements of this chapter and any regulations adopted by the Board. If, based on the verbal review, the Board determines that the establishment for hair braiding meets those requirements, the Board shall issue to the applicant the required license. Upon receipt of the license, the applicant must contact the Board to request the activation of the license. A license issued pursuant to this subsection is not valid until it is activated. The Board shall conduct an on-site inspection of the establishment for hair braiding not later than 90 days after the date on which the license is activated.

3. The fee for a license for an establishment for hair braiding is $200. The fee for the initial inspection is $15. If an additional inspection is necessary, the fee is $25.

Sec. 11. 1. The Board must be notified of any change of ownership, name, services offered or location of an establishment for hair braiding. The establishment may not be operated after the change until a new license is issued. The owner of the establishment must apply to the Board for the license and pay the fees established pursuant to subsection 3 of section 10 of this act.

2. After a license has been issued for the operation of an establishment for hair braiding, any changes in the physical structure of the establishment must be approved by the Board.

Sec. 12. 1. The license of an establishment for hair braiding expires 2 years after the date of issuance or renewal of the license.

2. If the owner of an establishment for hair braiding fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 13. Every holder of a license issued by the Board to operate an establishment for hair braiding shall display the license in plain view of members of the general public in the principal office or place of business of the holder.

Sec. 14. Hair braiding may be practiced in an establishment for hair braiding by licensed hair braiders, hair designers or cosmetologists who are:

1. Employees of the owner of the establishment; or

2. Lessees of space from the owner of the establishment.

Sec. 15. An establishment for hair braiding must, at all times, be under the immediate supervision of a licensed hair braider, hair designer or cosmetologist.

Sec. 16. Food or beverages for immediate consumption may be sold in an establishment for hair braiding.

Sec. 17. **NRS 644.020 is hereby amended to read as follows:**

644.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 644.0205 to 644.0295, inclusive, ***and sections 3, 4 and 5 of this act*** have the meanings ascribed to them in those sections.

Sec. 18. **NRS 644.0205 is hereby amended to read as follows:**

644.0205 1. "Aesthetician" means any person who engages in the practices of:

(a) Beautifying, massaging, cleansing or stimulating the skin of the human body by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, or any device, electrical or otherwise, for the care of the skin;

(b) Applying cosmetics or eyelashes to any person, tinting eyelashes and eyebrows, and lightening hair on the body; and

(c) Removing superfluous hair from the body of any person by the use of depilatories, waxing, tweezers or sugaring,

➥ but does not include the branches of cosmetology of a cosmetologist, hair designer, ***hair braider,*** electrologist or nail technologist.

2. As used in this section, "depilatories" does not include the practice of threading.

Sec. 19. **NRS 644.024 is hereby amended to read as follows:**

644.024 "Cosmetology" includes the occupations of a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** demonstrator of cosmetics and nail technologist.

Sec. 20. **NRS 644.090 is hereby amended to read as follows:**

644.090 The Board shall:

1. Hold examinations to determine the qualifications of all applicants for a license, except as otherwise provided in this chapter, whose applications have been submitted to it in proper form.

2. Issue licenses to such applicants as may be entitled thereto.

3. License ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology.

4. Report to the proper prosecuting officers all violations of this chapter coming within its knowledge.

5. Inspect schools of cosmetology ***, establishments for hair braiding*** and cosmetological establishments to ensure compliance with the statutory requirements and adopted regulations of the Board. This authority extends to any member of the Board or its authorized employees.

Sec. 21. **NRS 644.110 is hereby amended to read as follows:**

644.110 The Board shall adopt reasonable regulations:

1. For carrying out the provisions of this chapter.

2. For conducting examinations of applicants for licenses.

3. For governing the recognition of, and the credits to be given to, the study of cosmetology under a licensed electrologist or in a school of cosmetology licensed pursuant to the laws of another state or territory of the United States or the District of Columbia.

4. For governing the conduct of schools of cosmetology. The regulations must include but need not be limited to, provisions:

(a) Prohibiting schools from requiring that students purchase beauty supplies for use in the course of study;

(b) Prohibiting schools from deducting earned hours of school credit or any other compensation earned by a student as a punishment for misbehavior of the student;

(c) Providing for lunch and coffee recesses for students during school hours; and

(d) Allowing a member or an authorized employee of the Board to review the records of a student's training and attendance.

5. Governing the courses of study and practical training required of persons for treating the skin of the human body.

6. For governing the conduct of cosmetological establishments.

7. As the Board determines are necessary for governing the conduct of establishments for hair braiding.

~~[Section 1.]~~ ***Sec. 22.*** NRS 644.120 is hereby amended to read as follows:

644.120 1. The Board may adopt such regulations governing sanitary conditions as it deems necessary with particular reference to the precautions to be employed to prevent the creating or spreading of infectious or contagious diseases ***in the practice of hair braiding, in establishments for hair braiding, in the practice of a cosmetologist,*** in cosmetological establishments or schools of cosmetology, ~~[or] [in the practice of a cosmetologist] [.] [,]~~ ***in the practice of threading and in any facility in this State in which threading is conducted.***

2. No regulation governing sanitary conditions thus adopted has any effect until it has been approved by the State Board of Health.

3. A copy of all regulations governing sanitary conditions which are adopted must be furnished to each person to whom a license is issued for the conduct of a cosmetological establishment, ***establishment for hair braiding,*** school of cosmetology or practice of cosmetology.

Sec. 23. **NRS 644.130 is hereby amended to read as follows:**

644.130 1. The Board shall keep a record containing the name, known place of business, and the date and number of the license of every nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** demonstrator of cosmetics and cosmetologist, together with the names and addresses of all ***establishments for hair braiding,*** cosmetological establishments and schools of cosmetology licensed pursuant to this chapter. The record must also contain the facts which the applicants claimed in their applications to justify their licensure.

2. The Board may disclose the information contained in the record kept pursuant to subsection 1 to:

(a) Any other licensing board or agency that is investigating a licensee.

(b) A member of the general public, except information concerning the home and work address and telephone number of a licensee.

Sec. 24. **NRS 644.190 is hereby amended to read as follows:**

644.190 1. It is unlawful for any person to conduct or operate a cosmetological establishment, ***an establishment for hair braiding, a*** school of cosmetology or any other place of business in which any one or any combination of the occupations of cosmetology are taught or practiced unless the person is licensed in accordance with the provisions of this chapter.

2. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections 4 and 5,*** it is unlawful for any person to engage in, or attempt to engage in, the practice of cosmetology or any branch thereof, whether for compensation or otherwise, unless the person is licensed in accordance with the provisions of this chapter.

3. This chapter does not prohibit:

(a) Any student in any school of cosmetology established pursuant to the provisions of this chapter from engaging, in the school and as a student, in work connected with any branch or any combination of branches of cosmetology in the school.

(b) An electrologist's apprentice from participating in a course of practical training and study.

(c) A person issued a provisional license as an instructor pursuant to NRS 644.193 from acting as an instructor and accepting compensation therefor while accumulating the hours of training as a teacher required for an instructor's license.

(d) The rendering of cosmetological services by a person who is licensed in accordance with the provisions of this chapter, if those services are rendered in connection with photographic services provided by a photographer.

(e) A registered cosmetologist's apprentice from engaging in the practice of cosmetology under the immediate supervision of a licensed cosmetologist.

4. A person employed to render cosmetological services in the course of and incidental to the production of a motion picture, television program, commercial or advertisement is exempt from the licensing requirements of this chapter if he or she renders cosmetological services only to persons who will appear in that motion picture, television program, commercial or advertisement.

5. A person practicing hair braiding is exempt from the licensing requirements of this chapter applicable to hair braiding if the hair braiding is practiced on a person who is related within the sixth degree of consanguinity and the person does not accept compensation for the hair braiding.

Sec. 25. **NRS 644.193 is hereby amended to read as follows:**

644.193 1. The Board may grant a provisional license as an instructor to a person who:

(a) Has successfully completed the 12th grade in school or its equivalent and submits written verification of the completion of his or her education;

(b) Has practiced as a full-time licensed cosmetologist, hair designer, ***hair braider,*** aesthetician or nail technologist for 1 year and submits written verification of his or her experience;

(c) Is licensed pursuant to this chapter;

(d) Applies for a provisional license on a form supplied by the Board;

(e) Submits two current photographs of himself or herself; and

(f) Has paid the fee established pursuant to subsection 2.

2. The Board shall establish and collect a fee of not less than $40 and not more than $75 for the issuance of a provisional license as an instructor.

3. A person issued a provisional license pursuant to this section may act as an instructor for compensation while accumulating the number of hours of training required for an instructor's license.

4. A provisional license as an instructor expires upon accumulation by the licensee of the number of hours of training required for an instructor's license or 1 year after the date of issuance, whichever occurs first. The Board may grant an extension of not more than 45 days to those provisional licensees who have applied to the Board for examination as instructors and are awaiting examination.

~~[Sec. 2.]~~ ***Sec. 26.*** NRS 644.200 is hereby amended to read as follows:

644.200 The Board shall admit to examination for a license as a cosmetologist, at any meeting of the Board held to conduct examinations, any person who has made application to the Board in proper form and paid the fee, and who before or on the date of the examination:

1. Is not less than 18 years of age.

2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to applicable state or federal requirements.

~~[4.]~~ ***5.*** Has had any one of the following:

(a) Training of at least 1,800 hours, extending over a school term of 10 months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of a cosmetologist for a period of 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

(d) Completion of at least 3,600 hours of service as a cosmetologist's apprentice in a licensed cosmetological establishment in which all of the occupations of cosmetology are practiced. The required hours must have been completed during the period of validity of the certificate of registration as a cosmetologist's apprentice issued to the person pursuant to NRS 644.217.

~~[Sec. 3.]~~ ***Sec. 27.*** NRS 644.203 is hereby amended to read as follows:

644.203 The Board shall admit to examination for a license as an electrologist any person who has made application to the Board in the proper form and paid the fee, and who before or on the date set for the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed the 12th grade in school or its equivalent.

~~[4.]~~ ***5***. Has or has completed any one of the following:

(a) A minimum training of 500 hours under the immediate supervision of an approved electrologist in an approved school in which the practice is taught.

(b) Study of the practice for at least 1,000 hours extending over a period of 5 consecutive months, under an electrologist licensed pursuant to this chapter, in an approved program for electrologist's apprentices.

(c) A valid electrologist's license issued by a state whose licensing requirements are equal to or greater than those of this State.

(d) Either training or practice, or a combination of training and practice, in electrology outside this State for a period specified by regulations of the Board.

~~[Sec. 4.]~~ ***Sec. 28.*** NRS 644.204 is hereby amended to read as follows:

644.204 The Board shall admit to examination for a license as a hair designer, at any meeting of the Board held to conduct examinations, each person who has applied to the Board in proper form and paid the fee, and who:

1. Is not less than 18 years of age.
2. Is of good moral character.

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent. Testing for equivalency must be pursuant to state or federal requirements.

~~[4.]~~ ***5.*** Has had at least one of the following:

(a) Training of at least 1,200 hours, extending over a period of 7 consecutive months, in a school of cosmetology approved by the Board.

(b) Practice of the occupation of hair designing for at least 4 years outside this State.

(c) If the applicant is a barber registered pursuant to chapter 643 of NRS, 400 hours of specialized training approved by the Board.

~~[Sec. 5.]~~ ***Sec. 29.*** NRS 644.205 is hereby amended to read as follows:

644.205 The Board shall admit to examination for a license as a nail technologist any person who has made application to the Board in proper form, paid the fee and who, before or on the date of the examination:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***

4. Has successfully completed the 10th grade in school or its equivalent.

~~[4.]~~ ***5.*** Has had any one of the following:

(a) Practical training of at least 600 hours under the immediate supervision of a licensed instructor in a licensed school of cosmetology in which the practice is taught.

(b) Practice as a full-time licensed nail technologist for 1 year outside the State of Nevada.

~~[Sec. 6.]~~ ***Sec. 30.*** NRS 644.206 is hereby amended to read as follows:

644.206 The Board shall admit to examination for a license as a demonstrator of cosmetics any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has completed a course provided by the Board relating to sanitation; and

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 622.090, has received a score of not less than 75 percent on the examination administered by the Board.

~~[Sec. 7.]~~ ***Sec. 31.*** NRS 644.207 is hereby amended to read as follows:

644.207 The Board shall admit to examination for a license as an aesthetician any person who has made application to the Board in proper form, paid the fee and:

1. Is at least 18 years of age;
2. Is of good moral character;

3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States;***

4. Has successfully completed the 10th grade in school or its equivalent; and

~~[4.]~~ ***5.*** Has received a minimum of 900 hours of training, which includes theory, modeling and practice, in a licensed school of cosmetology or who has practiced as a full-time licensed aesthetician for at least 1 year.

Sec. 32. **NRS 644.220 is hereby amended to read as follows:**

644.220 1. In addition to the fee for an application, the fees for examination are:

(a) For examination as a cosmetologist, not less than $75 and not more than $200.

(b) For examination as an electrologist, not less than $75 and not more than $200.

(c) For examination as a hair designer, not less than $75 and not more than $200.

(d) ***For examination as a hair braider, $110.***

(e) For examination as a nail technologist, not less than $75 and not more than $200.

~~[(e)]~~ ***(f)*** For examination as an aesthetician, not less than $75 and not more than $200.

~~[(f)]~~ ***(g)*** For examination as an instructor of aesthetics, hair designers, cosmetology or nail technology, not less than $75 and not more than $200.

~~[The~~

2. Except as otherwise provided in this subsection, the fee for each reexamination is not less than $75 and not more than $200.

~~[2.]~~ ***The fee for reexamination as a hair braider is $110.***

3. In addition to the fee for an application, the fee for examination or reexamination as a demonstrator of cosmetics is $75.

~~[3.]~~ ***4.*** Each applicant referred to in subsections 1 and ~~[2]~~ ***3*** shall, in addition to the fees specified therein, pay the reasonable value of all supplies necessary to be used in the examination.

Sec. 33. **NRS 644.260 is hereby amended to read as follows:**

644.260 The Board shall issue a license as a cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics or instructor to each applicant who:

1. Passes a satisfactory examination, conducted by the Board to determine his or her fitness to practice that occupation of cosmetology; and

2. Complies with such other requirements as are prescribed in this chapter for the issuance of the license.

Sec. 34. **NRS 644.300 is hereby amended to read as follows:**

644.300 Every licensed nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** demonstrator of cosmetics or cosmetologist shall, within 30 days after changing his or her place of business, as designated in the records of the Board, notify the Secretary of the Board of the new place

of business. Upon receipt of the notification, the Secretary shall make the necessary change in the records.

~~[Sec. 8.]~~ ***Sec. 35.*** NRS 644.310 is hereby amended to read as follows:

644.310 ~~[Upon]~~ ***Except as otherwise provided in section 8 of this act, upon*** application to the Board, accompanied by a fee of $200, a person currently licensed in any branch of cosmetology under the laws of another state or territory of the United States or the District of Columbia may, without examination, unless the Board sees fit to require an examination, be granted a license to practice the occupation in which the applicant was previously licensed upon proof satisfactory to the Board that the applicant:

1. Is not less than 18 years of age.
2. Is of good moral character.
3. ***Is a citizen of the United States or is lawfully entitled to remain and work in the United States.***
4. Has successfully completed a nationally recognized written examination in this State or in the state or territory or the District of Columbia in which he or she is licensed.

~~[4.]~~ ***5.*** Is currently licensed in another state or territory or the District of Columbia.

Sec. 36. **NRS 644.320 is hereby amended to read as follows:**

644.320 1. The license of every cosmetologist, aesthetician, electrologist, hair designer, ***hair braider,*** nail technologist, demonstrator of cosmetics and instructor expires:

(a) If the last name of the licensee begins with the letter "A" through the letter "M," on the date of birth of the licensee in the next succeeding odd-numbered year or such other date in that year as specified by the Board.

(b) If the last name of the licensee begins with the letter "N" through the letter "Z," on the date of birth of the licensee in the next succeeding even-numbered year or such other date in that year as specified by the Board.

2. The Board shall adopt regulations governing the proration of the fee required for initial licenses ***, other than initial licenses as a hair braider,*** issued for less than 1 1/2 years.

3. Except as otherwise provided in this section, the fee for an initial license as a hair braider is $70. The fee for an initial license as a hair braider issued by the Board for:

(a) At least a portion of 1 month but less than 6 months is $17.50.

(b) Six months or more but less than 12 months is $35.00

(c) Twelve months or more but less than 18 months is $52.50.

Sec. 37. **NRS 644.325 is hereby amended to read as follows:**

644.325 1. An application for renewal of any license issued pursuant to this chapter must be:

(a) Made on a form prescribed and furnished by the Board;

(b) Made on or before the date for renewal specified by the Board;

(c) Accompanied by the fee for renewal; and

(d) Accompanied by all information required to complete the renewal.

2. The fees for renewal are:

(a) For nail technologists, electrologists, aestheticians, hair designers, demonstrators of cosmetics and cosmetologists, not less than $50 and not more than $100.

(b) ***For hair braiders, $70.***

(c) For instructors, not less than $60 and not more than $100.

~~[(c)]~~ ***(d)*** For cosmetological establishments, not less than $100 and not more than $200.

~~[(d)]~~ ***(e) For establishments for hair braiding, $70.***

(f) For schools of cosmetology, not less than $500 and not more than $800.

3. For each month or fraction thereof after the date for renewal specified by the Board in which a license is not renewed, there must be assessed and collected at the time of renewal a penalty of $50 for a school of cosmetology and $20 for ***an establishment for hair braiding,*** a cosmetological establishment and all persons licensed pursuant to this chapter.

4. An application for the renewal of a license as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist, demonstrator of cosmetics or instructor must be accompanied by two current photographs of the applicant which are 1 1/2 by 1 1/2 inches. The name and address of the applicant must be written on the back of each photograph.

5. Before a person applies for the renewal of a license on or after January 1, 2011, as a cosmetologist, hair designer, ***hair braider,*** aesthetician, electrologist, nail technologist or demonstrator of cosmetics, the person must complete at least 4 hours of instruction relating to infection control in a professional course or seminar approved by the Board.

Sec. 38. **NRS 644.330 is hereby amended to read as follows:**

644.330 1. A nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor whose license has expired may have his or her license renewed only upon payment of all required fees and submission of all information required to complete the renewal.

2. Any nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who retires from practice for more than 1 year may have his or her license restored only upon payment of all required fees and submission of all information required to complete the restoration.

3. No nail technologist, electrologist, aesthetician, hair designer, ***hair braider,*** cosmetologist, demonstrator of cosmetics or instructor who has retired from practice for more than 4 years may have his or her license restored without examination and must comply with any additional requirements established in regulations adopted by the Board.

~~[Sec. 9.]~~ ***Sec. 39.*** NRS 644.350 is hereby amended to read as follows:

644.350 1. The license of every cosmetological establishment expires ~~[:~~

~~(a) If the last name of the owner begins with the letter "A" through the letter "M," on the date of birth of the owner in the next succeeding odd-numbered year.~~

~~(b) If the last name of the owner begins with the letter "N" through the letter "Z," on the date of birth of the owner in the next succeeding even-numbered year.~~

~~2. If a cosmetological establishment has more than one owner, the Board shall designate one of the owners whose last name will be used for the purpose of determining the date of expiration of the license of the cosmetological establishment.~~

~~3.~~ ***2 years after the date of issuance or renewal of the license.***

2. If a cosmetological establishment fails to pay the required fee for renewal of its license within 90 days after the date of expiration of the license, the establishment must be immediately closed.

Sec. 40. **NRS 644.380 is hereby amended to read as follows:**

644.380 1. Any person desiring to conduct a school of cosmetology in which any one or any combination of the occupations of cosmetology are taught must apply to the Board for a license, through the owner, manager or person in charge, upon forms prepared and furnished by the Board. Each application must contain proof of the particular requisites for a license provided for in this chapter, and must be verified by the oath of the maker. The forms must be accompanied by:

(a) A detailed floor plan of the proposed school;

(b) The name, address and number of the license of the manager or person in charge and of each instructor;

(c) Evidence of financial ability to provide the facilities and equipment required by regulations of the Board and to maintain the operation of the proposed school for 1 year;

(d) Proof that the proposed school will commence operation with an enrollment of not less than 25 bona fide students;

(e) The annual fee for a license; ~~[and]~~

(f) ***A copy of the contract for the enrollment of a student in a program at the school of cosmetology; and***

(g) The name and address of the person designated to accept service of process.

2. Upon receipt by the Board of the application, the Board shall, before issuing a license, determine whether the proposed school:

(a) Is suitably located.

(b) Contains at least 5,000 square feet of floor space and adequate equipment.

(c) ***Has a contract for the enrollment of a student in a program at the school of cosmetology that is approved by the Board.***

(d) Meets all requirements established by regulations of the Board.

3. The annual fee for a license for a school of cosmetology is not less than $500 and not more than $800.

4. If the ownership of the school changes or the school moves to a new location, the school may not be operated until a new license is issued by the Board.

5. After a license has been issued for the operation of a school of cosmetology, the licensee must obtain the approval of the Board before making any changes in the physical structure of the school.

Sec. 41. **NRS 644.430 is hereby amended to read as follows:**

644.430 1. The following are grounds for disciplinary action by the Board:

(a) Failure of an owner of ***an establishment for hair braiding,*** a cosmetological establishment, a licensed aesthetician, cosmetologist, hair designer, ***hair braider,*** electrologist, instructor, nail technologist, demonstrator of cosmetics or school of cosmetology, or a cosmetologist's apprentice to comply with the requirements of this chapter or the applicable regulations adopted by the Board.

(b) Obtaining practice in cosmetology or any branch thereof, for money or any thing of value, by fraudulent misrepresentation.

(c) Gross malpractice.

(d) Continued practice by a person knowingly having an infectious or contagious disease.

(e) Drunkenness or the use or possession, or both, of a controlled substance or dangerous drug without a prescription, while engaged in the practice of cosmetology.

(f) Advertisement by means of knowingly false or deceptive statements.

(g) Permitting a license to be used where the holder thereof is not personally, actively and continuously engaged in business.

(h) Failure to display the license as provided in NRS 644.290, 644.360 and 644.410 ~~.~~ ***and section 13 of this act.***

(i) Entering, by a school of cosmetology, into an unconscionable contract with a student of cosmetology.

(j) Continued practice of cosmetology or operation of a cosmetological establishment or school of cosmetology after the license therefor has expired.

(k) Any other unfair or unjust practice, method or dealing which, in the judgment of the Board, may justify such action.

2. If the Board determines that a violation of this section has occurred, it may:

(a) Refuse to issue or renew a license;

(b) Revoke or suspend a license;

(c) Place the licensee on probation for a specified period;

(d) Impose a fine not to exceed $2,000; or

(e) Take any combination of the actions authorized by paragraphs (a) to (d), inclusive.

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

Sec. 42. **NRS 644.472 is hereby amended to read as follows:**

644.472 1. Except as otherwise provided in subsection 2, it is unlawful for any animal to be on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

2. An aquarium may be maintained on the premises of a licensed ***establishment for hair braiding or*** cosmetological establishment.

~~[Sec. 10.]~~ ***Sec. 43.*** NRS 644.383 is hereby repealed.

Sec. 44. **The provisions of this act apply to contracts entered into on or after July 1, 2011.**

Sec. 45. **Each school of cosmetology licensed before July 1, 2011, before entering into a contract for the enrollment of a student in a program at the school of cosmetology, shall obtain the Board's approval of the contract. Thereafter, any revisions to the approved contract must be approved in accordance with section 6 of this act.**

Sec. 46. **1. The State Board of Cosmetology shall:**

(a) On July 1, 2011, begin issuing licenses:

(1) To practice as a hair braider; and

(2) To operate an establishment for hair braiding.

(b) On or before July 1, 2011, adopt any regulations that the Board determines are necessary to enable the Board to begin issuing the licenses described in paragraph (a) on July 1, 2011.

2. As used in this section:

(a) "Establishment for hair braiding" has the meaning ascribed to it in section 3 of this act.

(b) "Hair braider" has the meaning ascribed to it in section 4 of this act.

(c) "Hair braiding" has the meaning ascribed to it in section 5 of this act.

Sec. 47. **This act becomes effective:**

1. Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks, including, without limitation, the approval of contracts, as needed to carry out the provisions of this act; and

2. On July 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

644.383 Surety bond.

1. The owner of each school of cosmetology shall post with the Board a surety bond executed by the applicant as principal and by a surety company as surety. If the license for the school was issued:

(a) On or before June 30, 2005, the bond must be in the amount of $10,000; or

(b) On or after July 1, 2005, except as otherwise provided in subsections 6 and 7, the bond must be in the amount determined by the Board pursuant to subsections 2 to 5, inclusive.

2. The amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 is the total of the amounts of the bonds for all of the programs offered by the school, except that:

(a) The total amount determined pursuant to subsections 3, 4 and 5 must be rounded down to the nearest $5,000; and

(b) The amount of the bond required for the school must not be less than $10,000 or more than $400,000.

3. Except as otherwise provided in subsection 4, the amount of the bond for a program at a school of cosmetology is equal to the cost to be paid by a student for the program multiplied by the number of students who will enroll in the program each year.

4. If the length of a program at a school of cosmetology is less than 1 year, the amount of the bond for that program is equal to the amount determined pursuant to subsection 3 divided by 52 and multiplied by the number of whole or partial weeks in the program.

5. Except as otherwise provided in subsection 2, the amount of the bond required for a school of cosmetology pursuant to paragraph (b) of subsection 1 must be reduced to 12 percent of the total of the amounts calculated pursuant to subsections 3 and 4 if the school participates in:

(a) Any program of student assistance pursuant to Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. §§ 1070 et. seq.; or

(b) Any other program administered by the United States Department of Education through which students at the school receive loans.

6. If a school of cosmetology has been licensed for not less than 5 years, the Board shall set the amount of the bond required pursuant to paragraph (b) of subsection 1 for the school:

(a) In the amount of $10,000, if the Board did not receive any valid complaints against the school during the immediately preceding 5 years;

(b) In an amount not less than $10,000 and not more than the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that each such complaint was a complaint of a minor violation of the provisions of this chapter or of any regulations adopted pursuant to this chapter; and

(c) In the amount calculated pursuant to subsections 2 to 5, inclusive, if the Board received one or more valid complaints against the school during the immediately preceding 5 years and the Board determines that any such complaint was a complaint of a major violation of the provisions of this chapter or any regulations adopted pursuant thereto.

7. The bond required for a school of cosmetology must be in the amount of $10,000 if the school:

(a) Is initially licensed on or before June 30, 2005;

(b) Has been continuously licensed since June 30, 2005; and

(c) Is relocated and obtains a license for the new location on or after July 1, 2005.

8. The bond must be in the form approved by the Board and must be conditioned upon compliance with the provisions of this chapter and upon faithful compliance with the terms and conditions of any contracts, verbal or written, made by the school to furnish instruction to any person. The bond must be to the State of Nevada in favor of every person who pays or deposits money with the school as payment for instruction. A bond continues in effect until notice of termination is given by registered or certified mail to the Board, and every bond must set forth this fact.

9. A person claiming to be injured or damaged by an act of the school may maintain an action in any court of competent jurisdiction on the bond against the school and the surety named therein, or either of them, for refund of tuition paid. Any judgment against the principal or surety in any such action must include the costs thereof and those incident to the bringing of the action, including a reasonable attorney's fee. The aggregate liability of the surety to all such persons may not exceed the sum of the bond.

10. The Board shall adopt regulations defining the terms "minor violation" and "major violation" for the purposes of subsection 6.

Senator Schneider moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 193.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 13, 23, 56, 76, 110, 113, 115, 130, 135, 141, 143, 145, 146, 182, 192, 200, 213, 233.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Denis, the privilege of the Floor of the Senate Chamber for this day was extended to Denise Geissinger, Sandy Small, Billie McMenamy, Dee John and Rick Kuhlmey.

On request of Senator Hardy, the privilege of the Floor of the Senate Chamber for this day was extended to Emily Weaver and the following students from the Wallin Elementary School: Mary Johnson (Abbie), Aislinn Kertesz, Jessabel Rodriguez, Kourtney Vincent, Tanner Billiu, Maya Fairchild, Emily Lookhoff, Garrett Maloney, Jadori Patel, Jordyn Peters, Madison Scott, Kelly Lane Smith, Cole Thurman, Preston Valdez, Carlos Verboonen, Skyler Watson, Clayton Watson, Dylan Avillanoza, Anthony Calderon, Christopher Custer, Mia Cutone, Justin Duross, Joshua Gordon, Camille Jefferies, Armaandeep Singh, Chad Wolin, Jacob Woolstenhulme, Kayla Hurlet, Thor Haynes, Alexa Bailey, Noel Chang, Kelsie Dayrit, Zachary Fears, Vance Ferron, Lacey Foster, Emma Nicole Georgiev, Mark Grismanauskas, Cameron Guibara, Garret Hepworth, Connor Preston and Melody Rathel.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to Patrick McNaught.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Morgan Lorenz and David Lorenz.

Senator Horsford moved that the Senate adjourn until Thursday, May 26, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:22 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 26, 2011

Senate called to order at 1:40 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

Almighty God, today we come into this Chamber to do the work that is set before us. The decisions we make today and the actions we take will affect all of the citizens of this State. May our decisions and votes be made for the good of our constituents and not any special interests. As we look at bills for the elderly, education and the economy of the State, guide us to seek Your direction and will.

As we are on the West Coast of this country, it is so easy for us to not pay close attention to the citizens in the rest of the United States who are far away but in need of our support and prayer. Many of us know people in the affected areas of the floods and tornados that have struck the center of this Nation and continue to do so. May we continue to lift them up to Your grace and mercy, and may we support and care for them in whatever way we can.

All these things we bring to You trusting in Your love, Your presence and Your grace, in the Name of Your Son, Jesus Christ.

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 Assembly Bill No. 521, 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 was referred Assembly Bill No. 199, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Finance, to which was re-referred Assembly Bill No. 500, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 208, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 98, 519, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Government Affairs, to which were referred Assembly Bills Nos. 240, 419, 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 Judiciary, to which was referred Assembly Bill No. 223, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 470, 474, 478, 479, 482; Assembly Bill No. 390.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 48, 202, 224, 255, 259, 330, 359.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolutions Nos. 1, 2.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 586 to Assembly Bill No. 29; Senate Amendment No. 558 to Assembly Bill No. 109; Senate Amendment No. 620 to Assembly Bill No. 138; Senate Amendment No. 587 to Assembly Bill No. 154; Senate Amendment No. 584 to Assembly Bill No. 170; Senate Amendment No. 624 to Assembly Bill No. 227; Senate Amendment No. 577 to Assembly Bill No. 249; Senate Amendment No. 596 to Assembly Bill No. 253; Senate Amendment No. 595 to Assembly Bill No. 254; Senate Amendment No. 601 to Assembly Bill No. 290; Senate Amendment No. 572 to Assembly Bill No. 313; Senate Amendment No. 622 to Assembly Bill No. 455; Senate Amendment No. 588 to Assembly Bill No. 533; Senate Amendment No. 589 to Assembly Bill No. 535.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 598 to Assembly Bill No. 39; Senate Amendment No. 599 to Assembly Bill No. 40; Senate Amendment No. 610 to Assembly Bill No. 362.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 48.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 202.

Senator Wiener moved that the bill be referred to the Select Committee on Economic Growth and Development.

Motion carried.

Assembly Bill No. 224.

Senator Wiener moved that the bill be referred to the Committee on Education.

Motion carried.

Assembly Bill No. 255.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 259.

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

Motion carried.

Assembly Bill No. 330.

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

Motion carried.

Assembly Bill No. 359.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

Assembly Bill No. 390.

Senator Wiener moved that the bill be referred to the Committee on Commerce, Labor and Energy.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 198, 260, 299, 398, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Lee moved that Assembly Bill No. 265 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 1:57 p.m.

SENATE IN SESSION

At 2:07 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Senate Bill No. 439.

Bill read second time and ordered to third reading.

Senate Bill No. 452.
Bill read second time and ordered to third reading.

Senate Bill No. 499.
Bill read second time and ordered to third reading.

Senate Joint Resolution No. 15.
Resolution read second time and ordered to third reading.

Assembly Bill No. 122.
Bill read second time.

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

Amendment No. 707.

"SUMMARY— ~~[Authorizes]~~ **Revises provisions concerning** the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind ~~[and solar]~~ energy. (BDR 22-592)"

"AN ACT relating to energy; ~~[authorizing]~~ **revising provisions concerning** the imposition of certain reasonable restrictions or requirements relating to systems for obtaining wind ~~[and solar]~~ energy; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the governing body of a city or county: (1) may enact zoning regulations and restrictions to promote the health, safety, morals or general welfare of the community; (2) is prohibited from adopting an ordinance or taking any other action which unreasonably prohibits or restricts an owner of real property from using a system for obtaining ~~[solar or]~~ wind energy on his or her property; **and** (3) may impose a reasonable restriction on the use of a system for obtaining wind energy which is related to the height, noise or safety of the system**.** ~~[; and (4) is required to authorize the use of a system which uses solar or wind energy to reduce energy costs for a structure if the system and structure comply with all applicable building codes and zoning ordinances.]~~ (NRS 278.020, 278.02077**)** ~~[, 278.0208, 278. 580) The governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining solar or wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the solar or wind energy system unless the restriction provides for the use of a comparable alternative system. (NRS 278.02077, 278.0208) Section 1 of this]~~ **This** bill provides that, in addition to reasonable restrictions relating to height, noise or safety, reasonable restrictions on the use of a system for obtaining wind energy may include restrictions relating to setback, location and finish. ~~[Section 2 of this bill authorizes a governing body to require that a special use permit or conditional permit be obtained for a system for obtaining solar energy proposed to be installed or constructed within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property.]~~ **This bill also deletes provisions which**

provide that the governing body of a city or county unreasonably prohibits or restricts the use of a system for obtaining wind energy if the governing body imposes restrictions that significantly decrease the efficiency or performance of the wind energy system unless the restriction provides for the use of a comparable alternative system.

WHEREAS, Nevada has significant amounts of ~~[solar and]~~ wind resources available for use in the production of clean, renewable sources of energy; and

WHEREAS, It has been a stated goal of the Nevada Legislature to encourage the availability of these ~~[solar and]~~ wind resources for use by the residents of this State; and

WHEREAS, Local governments have traditionally been authorized to enact zoning and land use regulations and restrictions to promote the health, safety, morals and general welfare of their communities; and

WHEREAS, It is the intent of the Nevada Legislature to encourage local governments to balance the use of clean, renewable sources of energy with the promotion of the health, safety, morals and general welfare of their communities; now, therefore

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

Section 1. NRS 278.02077 is hereby amended to read as follows:

278.02077 1. Except as otherwise provided in subsection 2:

(a) A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts the owner of real property from using a system for obtaining wind energy on his or her property.

(b) Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts the owner of the property from using a system for obtaining wind energy on his or her property is void and unenforceable.

2. The provisions of subsection 1 do not prohibit a reasonable restriction or requirement:

(a) Imposed pursuant to a determination by the Federal Aviation Administration that the installation of the system for obtaining wind energy would create a hazard to air navigation; or

(b) Relating to the ***finish,*** height, ***location,*** noise ***,*** ~~[or]~~ safety ***or setback*** of a system for obtaining wind energy.

~~[3. For the purposes of this section, "unreasonably restricts the owner of the property from using a system for obtaining wind energy" includes the placing of a restriction or requirement on the use of a system for obtaining wind energy which significantly decreases the efficiency or performance of the system and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.]~~

Sec. 2. ~~[NRS 278.0208 is hereby amended to read as follows:~~

~~278.0208 1. *Except as otherwise provided in subsection 2:*~~

~~*(a)* A governing body shall not adopt an ordinance, regulation or plan or take any other action that prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of real property from using a system for obtaining solar energy on his or her property.~~

~~[2.]~~ *(b)* ~~Any covenant, restriction or condition contained in a deed, contract or other legal instrument which affects the transfer or sale of, or any other interest in, real property and which prohibits or unreasonably restricts or has the effect of prohibiting or unreasonably restricting the owner of the property from using a system for obtaining solar energy on his or her property is void and unenforceable.~~

~~*2. A governing body may require that a special use permit or conditional permit be obtained in the manner provided in NRS 278.315 for the construction or installation of a system for obtaining solar energy within the boundaries of an incorporated city or town on nonresidential property that is adjacent to residential property. As used in this subsection, "nonresidential property" means all real property other than residential property and includes, without limitation, real property owned by a governmental entity.*~~

~~3. For the purposes of this section, the following shall be deemed to be unreasonable restrictions:~~

~~(a) The placing of a restriction or requirement on the use of a system for obtaining solar energy which decreases the efficiency or performance of the system by more than 10 percent of the amount that was originally specified for the system, as determined by the Director of the Office of Energy, and which does not allow for the use of an alternative system at a substantially comparable cost and with substantially comparable efficiency and performance.~~

~~(b) The prohibition of a system for obtaining solar energy that uses components painted with black solar glazing.]~~ **(Deleted by amendment.)**

Sec. 3. 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.

Amendment No. 707 to Assembly Bill No. 122 deletes provisions prohibiting the governing body of a city or county from imposing certain restrictions on wind energy systems.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 132.

Bill read second time.

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

Amendment No. 687.

"SUMMARY—Revises provisions governing the dates for certain elections. (BDR 24-684)"

"AN ACT relating to elections; revising provisions governing the dates for certain city elections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Certain cities that are created by charters hold ~~[general]~~ municipal elections in ~~[June of]~~ odd-numbered years (Boulder City, Caliente, Elko, Henderson, Las Vegas, North Las Vegas and Yerington). **Sections 20-47** of this bill amend the charters of ~~[those cities]~~ **Boulder City, Caliente, Henderson, Las Vegas, North Las Vegas and Yerington** to authorize the city councils of those cities to choose by ordinance ~~[whether]~~ to ~~[: (1)]~~ hold city elections on the state election cycle ~~[; or (2) continue holding the elections in June, as provided in their respective city charters.]~~ **, which is in even-numbered years. If the city council of Boulder City, Henderson, Las Vegas or North Las Vegas adopts such an ordinance, sections 21, 33, 39 and 40.5 of this bill provide that the ordinance must not affect the term of office of any elected official of the city serving in office on the effective date of the ordinance but may affect the next succeeding term for that office. If such an ordinance is adopted and subsequently repealed, the city would return to holding its elections in odd-numbered years, as provided in its existing city charter.**

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. Section 4 of the charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection and term; recall.

1. ~~[The]~~ ***Except as otherwise provided in section 96, the*** City Council shall have four Council Members and a Mayor elected from the City at large in the manner provided in Article IX, for terms of four years and until their successors have been elected and have taken office as provided in section 16 **.** ~~[, subject to recall as provided in section 111.5.]~~ No Council Member shall represent any particular constituency or district of the City, and each Council Member shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. The Council Members and the Mayor are subject to recall as provided in section 111.5.

Sec. 21. Section 96 of the charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of ~~[city]~~ ***municipal*** elections.

1. All ~~[city]~~ ***municipal*** 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 City Council which are consistent with law and this Charter. (1959 Charter)

2. All full terms of office in the City Council are ~~[four]~~ ***4*** years, and Council Members must be elected at large without regard to precinct residency. ~~[Two]~~ ***Except as otherwise provided in subsection 8, 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. (Add. 17; Amd. 1; 11-5-1996)

~~[(a)]~~ ***3***. In the event one or more ~~[two]~~ ***2***-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~[two]~~ ***2***-year positions. (Add. 15; Amd. 2; 6-4-1991)

~~[3. A city]~~

4. Except as otherwise provided in subsection 8, a primary ***municipal*** election must be held on the first Tuesday after the first Monday in April of each odd-numbered year and a ~~[city]~~ general ***municipal*** election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

~~[(a)]~~ ***5.*** A primary ***municipal*** election must not be held if no more than double the number of Council Members to be elected file as

candidates. A primary ***municipal*** election must not be held for the office of Mayor if no more than two candidates file for that position. The primary ***municipal*** election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council Members to be elected. (Add. 17; Amd. 1; 11-5-1996)

~~[(b)]~~ ***6.*** If, in the primary ~~[city]~~ ***municipal*** 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]~~ ***municipal*** election. (Add. 10; Amd. 7; 6-2-1981)

~~[(c)]~~ ***7.*** In each primary and general ***municipal*** election, voters ~~[shall be]~~ ***are*** entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the ~~[city]~~ ***municipal*** elections. (Add. 11; Amd. 5; 6-7-1983)

~~[4.]~~ ***8. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.***

9. If the City Council adopts an ordinance pursuant to subsection 8, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

10. If the City Council adopts an ordinance pursuant to subsection 8, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

11. The conduct of all municipal elections ~~[shall]~~ ***must*** be under the control of the City 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 City 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. (Add. 24; Amd. 1; 6-3-2003)

Sec. 22. Section 111.5 of the charter of Boulder City is hereby amended to read as follows:

Section 111.5. Recall of ***the Mayor and*** Council Members.

As provided by the general laws of this State, ***the Mayor and*** every member of the City Council ~~[is]~~ ***are*** subject to recall from office. (Add. 5; Amd. 5; 6-8-1971; Add. 24; Amd. 1; 6-3-2003)

Sec. 23. (Deleted by amendment.)

Sec. 24. Section 2.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 202, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of five Council Members, including the Mayor.

2. The Mayor and each Council Member ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 2 years immediately prior to their election.

(b) Qualified electors within the City.

3. All Council Members, including the Mayor, ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and shall serve for terms of 4 years except as ***otherwise*** provided in ~~[subsection 3 of]~~ section 5.010.

4. The Mayor and Council Members shall receive a salary in an amount fixed by the City Council. Such salary ~~[shall]~~ ***must*** not be increased or diminished during the term of the recipient.

Sec. 25. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 71, Statutes of Nevada 1975, at page 82, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1973, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and one Council Member who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[2.]~~ ***(b)*** On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1975, and at each successive interval of 4 years thereafter, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City , at a general ***municipal*** election to be held for that purpose , two Council Members ~~[,]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[3.]~~ ***(c)*** On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1975, there shall be elected by the qualified voters of the City at a general ***municipal*** election to be held for that purpose one Council Member who shall hold office for a period of 2 years and until his or her successor has been elected and qualified.

~~[4.]~~ ***(d)*** On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1977, and at each successive interval of 4 years, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City, at a general ***municipal*** election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 26. (Deleted by amendment.)

Sec. 27. ~~[Section 2.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 51, Statutes of Nevada 2001, at page 449, is hereby amended to read as follows:~~

~~Sec. 2.010 City Council: Qualifications; election; term of office; salary.~~

~~1. The legislative power of the City is vested in a City Council consisting of four members and the Mayor.~~

~~2. The members of the City Council must be:~~

~~(a) Bona fide residents of the City for at least 2 years before their election.~~

~~(b) Qualified electors within the City.~~

~~3. All members of the City Council must be voted upon by the registered voters of the City at large and *, except as otherwise provided in section 5.010,* shall serve for terms of 4 years.~~

~~4. The members of the City Council must receive a salary in an amount fixed by the City Council.]~~ **(Deleted by amendment.)**

Sec. 28. ~~[Section 5.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 463, is hereby amended to read as follows:~~

~~Sec. 5.010 Municipal elections.~~

~~1. *Except as otherwise provided in subsection 2:*~~

~~*(a)* On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general *municipal* election to be held for that purpose, a Mayor and two members of the City Council, who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~[2.]~~ *(b)* ~~On the first Tuesday after the first Monday in June 1973, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at a general *municipal* election to be held for that purpose, two members of the City Council,~~

~~who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~*2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.*~~

~~*3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.*~~

~~*4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.]*~~ **(Deleted by amendment.)**

Sec. 29. (Deleted by amendment.)

Sec. 30. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Council Member must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he or she represents.

(c) A resident of the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. All Council Members, including the Mayor, must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in section 5.020,*** shall serve for terms of 4 years.

5. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council. The City 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.

Sec. 31. Section 4.015 of the Charter of the City of Henderson, being chapter 231, Statutes of Nevada 1991, as last amended by chapter 209, Statutes of Nevada 2001, at page 970, is hereby amended to read as follows:

Sec. 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first ~~[municipal]~~ primary or general ***municipal*** election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. ~~[Each]~~ ***Except as otherwise provided in subsection 3, each*** Municipal Judge must be voted upon by the registered voters of the City at large ~~[.]~~ ***and, except as otherwise provided in section 5.020, shall serve for a term of 6 years.***

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

Sec. 32. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary ***municipal*** election.

1. ~~[A]~~ ***Except as otherwise provided in section 5.020, a*** primary ***municipal*** election must be held on the Tuesday after the first Monday in April of each odd-numbered year, at which time there must be nominated candidates for offices to be voted for at the next general municipal election.

2. A candidate for any office to be voted for at any primary municipal election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary ***municipal*** election no candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general ***municipal*** election. If in the primary ***municipal*** election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he or she is a candidate, he or she must be declared elected and no general ***municipal*** election need be held for that office.

Sec. 33. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ***Except as otherwise provided in subsection 2:***

(a) A general ***municipal*** election must be held in the City on the first Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.

~~[2.]~~ ***(b)*** All candidates for the office of Mayor, Council Member and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 ***,*** ~~[of this Charter,]~~ the term of office for a Municipal Judge is 6 years.

~~[3.]~~ ***(c)*** On the Tuesday after the first Monday in June 2001 ***,*** and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his or her successor has been elected and qualified.

~~[4.]~~ ***(d)*** On the Tuesday after the first Monday in June 2003 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his or her successor has been elected and qualified.

~~[5.]~~ ***(e)*** On the Tuesday after the first Monday in June 2005 ***,*** and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his or her successor has been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

Sec. 34. (Deleted by amendment.)

Sec. 35. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) One Council Member from each ward.

(c) Municipal Judges.

2. ~~[The]~~ ***Except as otherwise provided in section 5.020, the*** terms of office of the Mayor and Council Members are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 ~~[of this Charter,]~~ ***and section 5.020,*** the term of office of a Municipal Judge is 6 years.

Sec. 36. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1533, is hereby amended to read as follows:

Sec. 1.160 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the office of Mayor, Council Member or Municipal Judge must be filled by the majority vote of the entire City Council within 30 days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official, including, without limitation, any applicable residency requirement.

2. ~~[No]~~ ***Except as otherwise provided in section 5.010, no*** appointment extends beyond the first regular meeting of the City

Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday after the first Monday in the next succeeding June in an odd-numbered year, if no general municipal election is held in that year.

Sec. 37. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1536, is hereby amended to read as follows:

Sec. 4.020 Municipal Court: Qualifications of Municipal Judges; salary; Master Judge; departments; Alternate Judges.

1. Each Municipal Judge shall devote his or her full time to the duties of his or her office and must be:

(a) A duly licensed member, in good standing, of the State Bar of Nevada, but this qualification does not apply to any Municipal Judge who is an incumbent when this Charter becomes effective as long as he or she continues to serve as such in uninterrupted terms.

(b) A qualified elector who has resided within the territory which is established by the boundaries of the City for a period of not less than 30 days immediately before the last day for filing a declaration of candidacy for the department for which he or she is a candidate.

(c) Voted upon by the registered voters of the City at large.

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

3. The Municipal Judges of the six departments shall elect a Master Judge from among their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each ~~[odd-numbered year.]~~ ***year of a general municipal election.*** If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

(a) Shall establish and enforce administrative regulations for governing the affairs of the Municipal Court.

(b) Is responsible for setting trial dates and other matters which pertain to the Court calendar.

(c) Shall perform such other Court administrative duties as may be required by the City Council.

4. Alternate Judges in sufficient numbers may be appointed annually by the Mayor, each of whom:

(a) Must be a duly licensed member, in good standing, of the State Bar of Nevada and have such other qualifications as are prescribed by ordinance.

(b) Has all of the powers and jurisdiction of a Municipal Judge while acting as such.

(c) Is entitled to such compensation as may be fixed by the City Council.

5. Any Municipal Judge, other than an Alternate Judge, automatically forfeits his or her office if he or she ceases to be a resident of the City.

Sec. 38. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections. ***Except as otherwise provided in section 5.020:***

1. On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for half of the offices of Council Member and for Municipal Judge, Department 2, must be nominated.

2. On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Council Member and for Municipal Judge, Department 1, must be nominated.

3. The candidates for Council Members who are to be nominated as provided in subsections 1 and 2 must be nominated and voted for separately according to the respective wards. The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.

4. If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 ~~[of this Charter,]~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

5. Each candidate for the municipal offices which are provided for in subsections 1, 2 and 4 must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

6. If, in the primary ***municipal*** election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, he or she must be declared elected for the term

which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general ***municipal*** election need be held for that office. If, in the primary ***municipal*** election, no candidate receives a majority of votes which are cast in that election for the office for which he or she is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general ***municipal*** election.

Sec. 39. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[A]~~ ***Except as otherwise provided in subsection 2, a*** general municipal election must be held in the City on the Tuesday after the 1st Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

5. All candidates for elective office, except the office of Council Member, must be voted upon by the registered voters of the City at large.

Sec. 40. (Deleted by amendment.)

Sec. 40.5. The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.025, immediately following section 5.020, to read as follows:

Sec. 5.025 City Council authorized to ~~[choose dates]~~ provide for primary and general municipal elections ~~[; dates to be in accordance with this Charter or chapter 293 of NRS; effect upon terms of serving city officials.]~~ in even-numbered years.

1. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set

forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

2. If the City Council adopts an ordinance pursuant to subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal ~~[election]~~ elections and general municipal ~~[election.]~~ elections.

3. If the City Council adopts an ordinance pursuant to subsection 1, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

Sec. 41. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his or her election.

(b) A qualified elector within the City.

3. Each Council Member:

(a) Must be a qualified elector who has resided in the ward which he or she represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his or her office.

(b) Must continue to live in the ward he or she represents, except that changes in ward boundaries made pursuant to section 1.045 ~~[of this Charter]~~ will not affect the right of any elected Council Member to continue in office for the term for which he or she was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Council Member shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent, and ***except as otherwise provided in sections 5.010 and 5.025,*** his or her term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and ***except as otherwise provided in sections 5.010 and 5.025,*** his or her term of office is 4 years.

7. The Mayor and Council Members are entitled to receive a salary in an amount fixed by the City Council.

Sec. 42. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first ~~[municipal]~~ primary or ~~[municipal]~~ general ***municipal*** election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department, each Municipal Judge must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.025,*** holds office for a period of 6 years and until his or her successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 43. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 5.010 General municipal elections.

1. ***Except as otherwise provided in section 5.025:***

(a) On the Tuesday after the first Monday in June 1977, and at each successive interval of 4 years thereafter, there must be elected, at a general ***municipal*** election to be held for that purpose, a Mayor and two Council Members who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[2.]~~ ***(b)*** On the Tuesday after the first Monday in June 1975, and at each successive interval of 4 years thereafter, there must be elected, at a general ***municipal*** election to be held for that purpose, two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[3.]~~ ***2.*** In ~~[such]~~ a general ***municipal*** election:

(a) A candidate for the office of City Council Member must be elected only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 44. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 9, Statutes of Nevada 2009, at page 17, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Council Members must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Council Members will seek to represent. A candidate for the office of City Council Member shall include in his or her declaration of candidacy the number of the ward which he or she seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he or she seeks to represent.

2. ~~[A]~~ ***Except as otherwise provided in section 5.025, a*** primary ***municipal*** election must be held on the Tuesday following the first Monday in April preceding the general ***municipal*** election, at which time there must be nominated candidates for offices to be voted for at the next general ***municipal*** election. In the primary ***municipal*** election:

(a) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that he or she seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary ***municipal*** election, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general ***municipal*** election.

4. If, regardless of the number of candidates for an office, one candidate receives a majority of the total votes cast for that office in the primary ***municipal*** election, he or she must be declared elected to that office and no general ***municipal*** election need be held for that office.

Sec. 45. (Deleted by amendment.)

Sec. 46. Section 2.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 213, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Council Members.

2. The Council Members ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 6 months immediately preceding their election.

(b) Qualified electors in the City.

3. All Council Members ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and ***, except as otherwise provided in section 5.010,*** shall serve for terms of 4 years.

4. The Council Members shall receive a salary in an amount fixed by the City Council.

Sec. 47. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 912, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. ***Except as otherwise provided in subsection 2:***

(a) On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1975, and at each successive interval of 4 years, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City ***,*** at a general ***municipal*** election to be held for that purpose ***,*** a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

~~[2.]~~ ***(b)*** On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June 1977, and at each successive interval of 4 years thereafter, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City , at a general ***municipal*** election to be held for that purpose , two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

Sec. 48. (Deleted by amendment.)

Sec. 49. (Deleted by amendment.)

Sec. 50. This act becomes effective upon passage and approval.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 132 relates to elections in certain cities.

Amendment No. 687 makes the following changes. If the city councils of Boulder City, Henderson, Las Vegas, and North Las Vegas vote to amend their city charters to align their elections with the State election cycle, the ordinances must not affect the term of office any elected official serving in office on the effective date of the ordinance.

Subsequent terms of office may be shortened to achieve the transition to the State election cycle.

Any proposed changes to the city charter of Elko are deleted from the bill.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 160.

Bill read second time.

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

Amendment No. 664.

"SUMMARY—Revises provisions governing the financial reports of certain medical facilities. (BDR 40-559)"

"AN ACT relating to medical facilities; revising provisions governing the form and publication of financial reports of certain medical facilities; requiring hospitals to include certain information in the financial reports submitted by the hospitals; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain medical facilities to file financial information with the Department of Health and Human Services. (NRS 449.490) **Section 2** of this bill requires that financial statements filed by certain hospitals include additional financial information about the hospitals. **Section 2** further requires these reports and other related reports from medical institutions to be in a form which is readily understandable by members of the general public and included on an Internet website maintained by the Nevada Department of Health and Human Services. In addition, **section 1** of this bill specifies additional information that must be included on the Internet website. Under existing law, the Director of the Department is authorized to impose an administrative penalty of not more than $500 per day for a violation of these reporting requirements. (NRS 449.530)

Existing law requires the Director of the Department to submit a report to the Legislative Committee on Health Care and the Interim Finance Committee of the Department's operations and activities for the preceding fiscal year. (NRS 449.520) **Section 3** of this bill requires that the report include an analysis of the methodologies used to determine the corporate home office allocation of hospitals in this State.

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

Section 1. 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 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;

(b) Include, for each surgical center for ambulatory patients in this State, 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;

(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) ***Include a link to electronic copies of all reports, summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive;***

(i) Include, for each hospital ~~*[in this State,]*~~ ***with 100 or more beds, a summary of financial information which is readily understandable by a member of the general public and which includes, without limitation, a summary of:***

(1) The expenses of the hospital which are attributable to providing community benefits and in-kind services as reported pursuant to NRS 449.490;

(2) The capital improvement report submitted to the Department pursuant to NRS 449.490;

(3) The net income of the hospital;

(4) The net income of the consolidated corporation, if the hospital is owned by such a corporation and if that information is publicly available;

(5) The operating margin of the hospital;

(6) The ratio of the cost of providing care to patients covered by Medicare to the charges for such care;

(7) The ratio of the total costs to charges of the hospital; and

(8) The average daily occupancy of the hospital; and

(j) 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.

Sec. 2. NRS 449.490 is hereby amended to read as follows:

449.490 1. Every institution which is subject to the provisions of NRS 449.450 to 449.530, inclusive, shall file with the Department the

following financial statements or reports in a form and at intervals specified by the Director but at least annually:

(a) A balance sheet detailing the assets, liabilities and net worth of the institution for its fiscal year; and

(b) A statement of income and expenses for the fiscal year.

2. Each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually, a capital improvement report which includes, without limitation, any major service line that the hospital has added or is in the process of adding since the previous report was filed, any major expansion of the existing facilities of the hospital that has been completed or is in the process of being completed since the previous report was filed, and any major piece of equipment that the hospital has acquired or is in the process of acquiring since the previous report was filed.

3. In addition to the information required to be filed pursuant to subsections 1 and 2, each hospital with 100 or more beds shall file with the Department, in a form and at intervals specified by the Director but at least annually:

(a) ~~[The corporate home office allocation methodology of the hospital, if any.~~

~~(b)]~~ The expenses that the hospital has incurred for providing community benefits and the in-kind services that the hospital has provided to the community in which it is located. ***These expenses must be reported as the total amount expended for community benefits and in-kind services and reported as a percentage of the total net revenues of the hospital.*** For the purposes of this paragraph, "community benefits" includes, without limitation, goods, services and resources provided by a hospital to a community to address the specific needs and concerns of that community, services provided by a hospital to the uninsured and underserved persons in that community, training programs for employees in a community and health care services provided in areas of a community that have a critical shortage of such services, for which the hospital does not receive full reimbursement.

~~[(c)]~~ ***(b)*** A statement of its policies and procedures for providing discounted services to, or reducing charges for services provided to, persons without health insurance that are in addition to any reduction or discount required to be provided pursuant to NRS 439B.260.

~~[(d)]~~ ***(c) A list of the services which the hospital purchased from its corporate home office;***

(d) A report of the cost to the hospital of providing services to patients covered by Medicare;

(e) Financial information from the consolidated corporation, if the hospital is owned by such a corporation and if that information is publicly available, including, without limitation, the annual report of the consolidated corporation;

(f) A statement of its policies regarding patients' account receivables, including, without limitation, the manner in which a hospital collects or makes payment arrangements for patients' account receivables, the factors that initiate collections and the method by which unpaid account receivables are collected.

4. A complete current charge master must be available at each hospital during normal business hours for review by the Director, any payor that has a contract with the hospital to pay for services provided by the hospital, any payor that has received a bill from the hospital and any state agency that is authorized to review such information. The complete and current charge master must be made available to the Department, at the request of the Director, in an electronic format specified by the Department. The Department may use the electronic copy of the charge master to review and analyze the data contained in the charge master and, except as otherwise provided in NRS 439A.200 to 439A.290, inclusive, shall not release or publish the information contained in the charge master.

5. The Director shall require the certification of specified financial reports by an independent certified public accountant and may require attestations from responsible officers of the institution that the reports are, to the best of their knowledge and belief, accurate and complete to the extent that the certifications and attestations are not required by federal law.

6. The Director shall require ~~[the]~~ ***:***

(a) The filing of all reports by specified dates, and may adopt regulations which assess penalties for failure to file as required ~~[, but the Director shall not require the]~~ ***; and***

(b) The submission of a final annual report ~~[sooner]~~ ***not later*** than 6 months after the close of the fiscal year,

➥ and may grant extensions to institutions which can show that the required information is not available on the required reporting date.

7. All reports, except privileged medical information, filed under any provisions of NRS 449.450 to 449.530, inclusive ~~[, are]~~ ***:***

(a) Are open to public inspection ~~[and must]~~ ***;***

(b) Must be in a form which is readily understandable by a member of the general public;

(c) Must, as soon as practicable after those reports become available, **be** ***posted on the Internet website maintained pursuant to NRS 439A.270; and***

(d) Must be available for examination at the office of the Department during regular business hours.

Sec. 3. NRS 449.520 is hereby amended to read as follows:

449.520 1. On or before October 1 of each year, the Director shall prepare and transmit to the Governor, the Legislative Committee on Health Care and the Interim Finance Committee a report of the Department's operations and activities for the preceding fiscal year.

2. The report prepared pursuant to subsection 1 must include:

(a) Copies of all ***reports,*** summaries, compilations and supplementary reports required by NRS 449.450 to 449.530, inclusive, together with such facts, suggestions and policy recommendations as the Director deems necessary;

(b) A summary of the trends of the audits of hospitals in this State that the Department required or performed during the previous year;

(c) An analysis of the trends in the costs, expenses and profits of hospitals in this State;

(d) An analysis of the ***methodologies used to determine the*** corporate home office allocation ~~[methodologies]~~ of hospitals in this State;

(e) An examination and analysis of the manner in which hospitals are reporting the information that is required to be filed pursuant to NRS 449.490, including, without limitation, an examination and analysis of whether that information is being reported in a standard and consistent manner, which fairly reflect the operations of each hospital;

(f) A review and comparison of the policies and procedures used by hospitals in this State to provide discounted services to, and to reduce charges for services provided to, persons without health insurance;

(g) A review and comparison of the policies and procedures used by hospitals in this State to collect unpaid charges for services provided by the hospitals; and

(h) A summary of the status of the programs established pursuant to NRS 439A.220 and 439A.240 to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State, including, without limitation, the information that was posted in the preceding fiscal year on the Internet website maintained for those programs pursuant to NRS 439A.270.

3. The Legislative Committee on Health Care shall develop a comprehensive plan concerning the provision of health care in this State which includes, without limitation:

(a) A review of the health care needs in this State as identified by state agencies, local governments, providers of health care and the general public; and

(b) A review of the capital improvement reports submitted by hospitals pursuant to subsection 2 of NRS 449.490.

Sec. 4. (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. 664 revises Assembly Bill No. 160 by clarifying that only hospitals with 100 or more beds are required to include a summary of financial information in the required report.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 179.

Bill read second time.

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

Amendment No. 773.

"SUMMARY—Revises provisions relating to disciplinary action against a public employee. (BDR 23-841)"

"AN ACT relating to public personnel; requiring that certain procedures be followed before taking disciplinary action against a public employee; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, an appointing authority may dismiss or demote a permanent classified employee if the appointing authority considers that the dismissal or demotion will serve the good of the public service, and the appointing authority may suspend a permanent employee without pay for disciplinary purposes for up to 30 days. (NRS 284.385) The employee may then request a hearing to determine whether the dismissal, demotion or suspension was reasonable. (NRS 284.390)

Section 1.5 of this bill requires an appointing authority to provide each employee of the appointing authority with a copy of a policy approved by the Personnel Commission that explains certain information relating to disciplinary action. **Section 2** of this bill requires an appointing authority to consult with the Attorney General or, if the appointing authority is part of the Nevada System of Higher Education, its general counsel, regarding any proposed disciplinary action before imposing the disciplinary action. **Section 3** of this bill requires certain investigations relating to disciplinary action against a public employee to be completed within 90 days after the employee is given notice of the allegations or investigation and provide for an extension of that time period.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. NRS 284.383 is hereby amended to read as follows:

284.383 1. The Commission shall adopt by regulation a system for administering disciplinary measures against a state employee in which, except in cases of serious violations of law or regulations, less severe measures are applied at first, after which more severe measures are applied only if less severe measures have failed to correct the employee's deficiencies.

2. The system adopted pursuant to subsection 1 must provide that a state employee is entitled to receive a copy of any findings or recommendations made by an appointing authority or the representative of the appointing authority, if any, regarding proposed disciplinary action.

3. An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by

the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.

Sec. 2. NRS 284.385 is hereby amended to read as follows:

284.385 1. An appointing authority may:

(a) Dismiss or demote any permanent classified employee when the appointing authority considers that the good of the public service will be served thereby.

(b) Except as otherwise provided in NRS 284.148, suspend without pay, for disciplinary purposes, a permanent employee for a period not to exceed 30 days.

2. ***Before a permanent classified employee is dismissed, involuntarily demoted or suspended, the appointing authority must consult with the Attorney General or, if the employee is employed by the Nevada System of Higher Education, the appointing authority's general counsel, regarding the proposed discipline. After such consultation, the appointing authority may take such lawful action regarding the proposed discipline as it deems necessary under the circumstances.***

3. A dismissal, involuntary demotion or suspension does not become effective until the employee is notified in writing of the dismissal, involuntary demotion or suspension and the reasons therefor. The notice may be delivered personally to the employee or mailed to the employee at the employee's last known address by registered or certified mail, return receipt requested. If the notice is mailed, the effective date of the dismissal, involuntary demotion or suspension shall be deemed to be the date of delivery or if the letter is returned to the sender, 3 days after mailing.

~~[3.]~~ ***4.*** No employee in the classified service may be dismissed for religious or racial reasons.

Sec. 3. NRS 284.387 is hereby amended to read as follows:

284.387 ***1.*** An employee who is the subject of an internal administrative investigation that could lead to disciplinary action against the employee pursuant to NRS 284.385 must be:

~~[1.]~~ ***(a)*** Provided notice in writing of the allegations against the employee before the employee is questioned regarding the allegations; and

~~[2.]~~ ***(b)*** Afforded the right to have a lawyer or other representative of the employee's choosing present with the employee at any time that the employee is questioned regarding those allegations. The employee must be given not less than 2 business days to obtain such representation, unless the employee waives the employee's right to be represented.

2. An internal administrative investigation that could lead to disciplinary action against an employee pursuant to NRS 284.385 and any determination made as a result of such an investigation must be completed and the employee notified of any disciplinary action within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1. If the appointing authority cannot complete

the investigation and make a determination within 90 days after the employee is provided notice of the allegations pursuant to paragraph (a) of subsection 1, the appointing authority may request an extension of not more than 60 days from the Director upon showing good cause for the delay. No further extension may be granted unless approved by the Governor.

Sec. 4. 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.

Assembly Bill No. 179 relates to the State personnel system. Amendment No. 773 clarifies that, prior to taking disciplinary action against a public employee, the appointing authority is not required to get permission from legal counsel.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 230.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 727.

"SUMMARY—Authorizes an alternative route to licensure for teachers and administrators. (BDR 34-738)"

"AN ACT relating to educational personnel; **requiring the State Board of Education to evaluate certain providers of education and training which are offered to qualify a person to be a teacher or administrator or to perform other educational functions;** 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:

Section 1 of this bill requires the State Board of Education to conduct an annual evaluation of each provider approved by the State Board or the Commission on Professional Standards in Education to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including qualified providers of alternative routes to licensure approved by the Commission pursuant to section 2 of this bill.

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) The regulations are subject to the approval of the State Board **,** ~~[of Education,]~~ which has the authority to disapprove any regulation adopted by the Commission for certain specified reasons. (NRS 391.027)

Section ~~[1 of this bill]~~ 2 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 that 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. **Section ~~[5]~~ 6** of this bill requires the Commission to adopt the regulations on or before December 31, 2011.

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. The State Board shall, on an annual basis, evaluate each provider approved by the State Board or the Commission to offer a course of study or training designed to qualify a person to be a teacher or administrator or to perform other educational functions, including, without limitation, a qualified provider approved by the Commission pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 391.019. The evaluation must include, without limitation, for each provider, the number of persons:

(a) Who received a license pursuant to this chapter after completing the course of study or training offered by the provider; and

(b) Identified in paragraph (a) who are employed by a school district or a charter school in this State after receiving a license and information relating to the performance evaluations of those persons conducted by the school district or charter school. The information relating to the performance evaluations must be reported in an aggregated format and not reveal the identity of a person.

2. The Department shall post on its Internet website the evaluation conducted pursuant to subsection 1.

~~[Section 1.]~~ ***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 that 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) Provide that a person who has completed the education and training required under the alternative route to licensure and who has satisfied all other requirements for licensure may apply for a regular license pursuant to sub-subparagraph (VII) regardless of whether the person has received an offer of employment from a school district, charter school or private school; and

(VII) 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:

~~[(I)]~~ ***(1)*** Provide instruction or other educational services; and

~~[(II)]~~ ***(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:

~~[(I)]~~ ***(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

~~[(II)]~~ ***(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:

~~[(I)]~~ ***(1)*** Pass each examination required by NRS 391.021 for the specific subject or subjects in which the applicant will provide instruction; or

~~[(II)]~~ ***(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:

~~[(I)]~~ ***(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;

~~[(II)]~~ ***(2)*** Is not licensed to teach public school in another state;

~~[(III)]~~ ***(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

~~[(IV)]~~ ***(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. 2.]~~ ***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. 3.]~~ ***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. 4.]~~ ***Sec. 5.*** 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. 5.]~~ ***Sec. 6.*** 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 ~~[1]~~ **2** of this act.

~~[Sec. 6.]~~ ***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. 727 makes two changes to the bill. First, the amendment requires the Commission on Professional Standards in Education to adopt regulations allowing for a candidate to apply for a license obtained through an alternative route prior to receiving an offer for employment from a school district, charter school, or private school.

Second, the amendment requires the State Board of Education to adopt regulations to evaluate qualified providers of education and training for licensure of teachers and administrators.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 238.

Bill read second time.

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

Amendment No. 633.

"SUMMARY—Revises provisions concerning the refunding of certain municipal securities. (BDR 20-244)"

"AN ACT relating to local government finance; revising provisions concerning the refunding of municipal securities related to infrastructure projects in certain counties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Since October 1, 1999, a county has been authorized, as part of a lending project under the County Bond Law, to acquire securities issued by a municipality located wholly or partially within the county: (1) to undertake one or more infrastructure projects; or (2) to refund those securities. In the latter case, a county's authority is limited to acquiring only those securities issued to refund municipal securities for infrastructure projects that were previously acquired by the county. (NRS 244A.0343, 244A.064) This bill **partially** eliminates this limitation on a county's authority in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County) and thereby allows such a county to acquire securities that were issued by a ~~[municipality to refund municipal securities issued previously for infrastructure]~~ **water authority for water** projects regardless of whether those securities are held by the county or another entity. However, such a county may only acquire those municipal securities issued for purposes of refunding if the initial securities for the ~~[infrastructure]~~ **water** projects were issued by the municipality on or after October 1, 1999.

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

Section 1. NRS 244A.0343 is hereby amended to read as follows:

244A.0343 "Lending project" means *:*

1. In a county whose population is 100,000 or more but less than 700,000, the acquisition of municipal securities issued by a ~~[municipality]~~ water authority located wholly or partially within the county acquiring the municipal securities for one or more infrastructure projects which consist of capital improvements for a water system or for the refunding of municipal securities issued on or ~~[before]~~ after October 1, 1999, for one or more infrastructure projects which consist of capital improvements for a water system or any combination thereof.

2. In all other counties, the acquisition of municipal securities issued by a municipality located wholly or partially within the county acquiring the municipal securities for one or more infrastructure projects or for the refunding of municipal securities previously acquired as part of a lending project by a county for one or more infrastructure projects or any combination thereof.

Sec. 2. NRS 244A.064 is hereby amended to read as follows:

244A.064 In connection with any lending project, a county may:

1. Require additional security or credit enhancement for payment of municipal securities acquired as it deems prudent.

2. Make contracts and execute all necessary or desirable instruments or documents not in conflict with the requirements of the County Bond Law.

3. Provide by ordinance for its standards, policies and procedures for financing lending projects.

4. Acquire and hold municipal securities and execute the rights of the holder of those municipal securities.

5. Sell or otherwise dispose of municipal securities unless the county is limited by any agreement that is related to those securities.

6. ~~[Refund any county general obligations issued for a lending project if]~~ ***If*** the county and the municipality agree to the disposition of any savings resulting from the refunding ~~[.]~~ ***:***

(a) In a county whose population is 100,000 or more but less than 700,000, refund:

(1) Any county general obligations issued for a lending project;

(2) Any municipal securities issued on or after October 1, 1999, for one or more infrastructure projects which consist of capital improvements for a water system ; or

(3) Any combination of subparagraphs (1) and (2).

(b) In all other counties, refund any county general obligations issued for a lending project.

7. Require payment by a municipality that participates in a lending project of the fees and expenses of the county in connection with the lending project.

8. Secure the payment of county general obligations issued for a lending project with a pledge of revenues of the lending project. If the revenues of a lending project are formally pledged to the county bonds issued to finance a lending project, the board may treat the revenues of the lending project financed by an issue of county general obligation bonds as pledged revenues pursuant to subsection 3 of NRS 350.020.

Sec. 3. 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. 633 to Assembly Bill No. 238 clarifies the definition of "lending project" to mean the acquisition of municipal securities issued by a water authority for infrastructure projects consisting of capital improvements for a water system.

The amendment clarifies that infrastructure projects relating to improvements to water systems may be the basis for acquiring municipal securities for the purpose of refunding previously-issued securities; and makes one technical amendment to conform Section 1, with Section 2 by replacing the word "before" with the word "after."

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 283.

Bill read second time.

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

Amendment No. 705.

"SUMMARY—Revises provisions relating to mortgage loans. (BDR 54-830)"

"AN ACT relating to mortgage loans; revising provisions governing the requirement for certain mortgage agents, mortgage bankers, mortgage brokers and other employees to register with the Nationwide Mortgage Licensing System and Registry; revising provisions governing continuing education requirements for certain licensees; ~~[providing]~~ **clarifying that** certain investors who deposit money with a mortgage broker ~~[with an exemption]~~ **are exempt** from criminal and civil liability for the acts or omissions of the mortgage broker; revising provisions governing the employment or association of mortgage agents; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 requires that a person who originates residential mortgage loans be licensed as a loan originator and requires that such a loan originator be registered with the Nationwide Mortgage Licensing System and Registry. (12 U.S.C. § 5103) Existing law in Nevada prescribes the requirements for a license as a mortgage agent, mortgage banker, mortgage broker or a qualified employee who is a residential mortgage loan originator, which include,

without limitation, registration with the Nationwide Mortgage Licensing System and Registry. (NRS 645B.0137, 645E.200) **Section 6** of this bill provides that such a person is not required to register or renew with the Nationwide Mortgage Licensing System and Registry, or provide reports of financial condition to the Registry, if: (1) the person is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and (2) the person is not required to register pursuant to the federal Act. **Section 6** also provides that such a person who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Act.

Under existing law, the Commissioner of Mortgage Lending is required to adopt such regulations as necessary to carry out the provisions of the federal Act. (NRS 645F.293) **Section 7** of this bill provides that the regulations must not require registration of a person who is exempt pursuant to **section 6**.

Sections ~~[1.]~~ 1.5, 2 and 4 of this bill revise provisions governing continuing education requirements for persons who are exempt pursuant to **section 6** and who have not voluntarily registered or renewed with the Registry. ~~[Section]~~ **Sections 1 and 3** of this bill ~~[exempts]~~ **clarify that** certain investors who deposit money with a mortgage broker **are exempt** from criminal and civil liability for the acts or omissions of the mortgage broker. **Section 5** of this bill revises provisions governing the employment of or association with a mortgage agent by a mortgage broker, mortgage banker or person who holds a certificate of exemption issued by the Commissioner of Mortgage Lending. **Section 8** of this bill repeals certain provisions governing mortgage bankers which are included within the amendatory provisions of **section 5**.

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

Section 1. **The Legislature hereby finds and declares that:**

1. It is the intent of the Legislature to encourage investment in real property in this State;

2. It is the intent of the Legislature to ensure the integrity of transactions relating to investments in real property and the proper regulation of the actions of persons who facilitate such transactions, including, without limitation, mortgage brokers; and

3. It is the intent of the Legislature in enacting the amendatory provisions of NRS 645B.175, as amended by section 3 of this act, to clarify that the scope of the protection afforded to an investor under the existing provisions of chapter 645B of NRS includes protections from the imposition of any duty, responsibility, obligation or liability of a mortgage broker on an investor who only provides money to acquire, through the actions of a mortgage broker, ownership of or a beneficial interest in a loan secured by a lien on real property.

~~[Section 1.]~~ ***Sec. 1.5.*** NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

(c) Ensuring compliance with the requirements for registration with the Registry and any other applicable federal law.

3. The regulations adopted by the Commissioner pursuant to subsection 2 must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry to complete any continuing education relating to residential mortgage loans.

Sec. 2. NRS 645B.051 is hereby amended to read as follows:

645B.051 1. Except as otherwise provided in ~~[this section,]~~ ***subsection 2,*** in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. ~~[The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.]~~ ***In lieu of the continuing education requirements set forth in paragraph (a) or (b) of subsection 1, a licensee or any natural person who supervises the daily business of the licensee who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of***

continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:

(a) At least 3 hours relating to the laws and regulations of this State; and

(b) At least 2 hours relating to ethics.

3. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

Sec. 3. NRS 645B.175 is hereby amended to read as follows:

645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his or her mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or the debtor's designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

(c) Pursuant to any instructions regarding the escrow account.

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or the debtor's designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and

(b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a mortgage broker and his or her mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.

(2) Received pursuant to subsection 1.

5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that the investor owns in the loan; and

(b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.

6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in subsection 5. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his or her mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the mortgage broker and his or her mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his or her mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this

45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

12. Any duty, responsibility or obligation of a mortgage broker pursuant to this chapter is not delegable or transferable to an investor, and, if an investor only provides money to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, no criminal or civil liability may be imposed on the investor for any act or omission of a mortgage broker.

Sec. 4. NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

(b) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

(c) A renewal fee set by the Commissioner of not more than $170.

2. ***In lieu of the continuing education requirement set forth in paragraph (b) of subsection 1, the holder of a license as a mortgage agent who, pursuant to subsection 1 of section 6 of this act, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of***

continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include:

(a) At least 3 hours relating to the laws and regulations of this State; and

(b) At least 2 hours relating to ethics.

3. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 ***or 2*** to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of $75.

~~[3.]~~ ***4.*** To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of $10.

~~[4.]~~ ***5.*** To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of $10.

~~[5.]~~ ***6.*** Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

~~[6. The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.]~~

7. As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.

Sec. 5. NRS 645B.450 is hereby amended to read as follows:

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one ***licensed or registered*** mortgage broker ***or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** at the same time.

2. A mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. ***Before allowing a mortgage agent to act on its behalf, a mortgage broker, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016, must:***

(a) Enter its sponsorship of the mortgage agent with the Registry; or

(b) If the mortgage agent is not required to be registered with the Registry, notify the Division of its sponsorship of the mortgage agent.

3. If a mortgage agent terminates his or her association or employment with a mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** for any reason, the mortgage broker ***, mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016*** shall, not later than the third business day following the date of termination:

(a) ~~[Deliver]~~ ***Remove its sponsorship of the mortgage agent from the Registry; or***

(b) If the mortgage agent is not required to be registered with the Registry, deliver to the ***Division and to the*** mortgage agent ~~[or send by certified mail to]~~ ***at*** the last known residence address of the mortgage agent a written statement which ~~[advises the mortgage agent that the termination is being reported to the Division; and~~

~~(b) Deliver or send by certified mail to the Division:~~

~~(1) The license or license number of the mortgage agent;~~

~~(2) A written statement of the circumstances surrounding the termination; and~~

~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).]~~ ***includes the name, address and license number of the mortgage agent and a statement of the circumstances of the termination.***

Sec. 6. Chapter 645F of NRS is hereby amended by adding thereto a new section to read as follows:

1. A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker is not required to register or renew with the Registry, or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker or employee:

(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and

(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. A mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.

3. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in NRS 645B.01325.

Sec. 7. NRS 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

3. The regulations must not require a mortgage agent, mortgage banker or mortgage broker or an employee of a mortgage banker or mortgage broker to register with the Registry if the mortgage agent, mortgage banker, mortgage broker or employee is exempt from registration pursuant to subsection 1 of section 6 of this act.

Sec. 8. NRS 645E.292 is hereby repealed.

Sec. 9. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

645E.292 Duties of mortgage banker upon termination of mortgage agent. If a mortgage agent terminates his or her association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises the mortgage agent that the termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

(a) The license or license number of the mortgage agent;

(b) A written statement of the circumstances surrounding the termination; and

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

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. 705 to Assembly Bill No. 283 merely clarifies the legislative intent of the bill by declaring that it has always been the legislative intent that an investor is not liable for the actions of a mortgage broker if all the investor did was to provide money for a broker to loan to borrowers.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 289.

Bill read second time.

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

Amendment No. 709.

"SUMMARY—Enacts provisions relating to the practice of dietetics. (BDR 54-871)"

"AN ACT relating to dietetics; ~~[creating the State Board of Dietetics; prescribing the powers and duties of the Board; providing for the membership of the Board;]~~ providing for the licensure of dietitians ~~[;]~~ **by the State Board of Health;** prohibiting a person from engaging in the practice of dietetics without a license issued by the Board; setting forth the grounds for disciplinary action against a licensed dietitian; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides for the licensing and regulation of the practice of dietetics by the State Board of ~~[Dietetics.]~~ **Health.** The practice of dietetics is the performance of acts of assessment, evaluation, diagnosis, counseling, intervention, monitoring or treatment of a person relating to nutrition, food, biology, and behavior to achieve and maintain proper nourishment and care of the health of the person.

~~[Sections 11-19 of this bill create the State Board of Dietetics and prescribe the powers and duties of the Board and include provisions concerning: (1) the membership of the Board; (2) the meetings of the Board; (3) the compensation of Board members; (4) a waiver of liability for actions taken by members or employees of the Board within the scope of their duties; and (5) the authority of the Board to adopt certain regulations.]~~

Sections 2-10 and 20-31 of this bill regulate the activities of persons who engage in the practice of dietetics and include provisions concerning: (1) applications for and renewals of a license to engage in the practice of dietetics; and (2) the duties and scope of practice of a licensed dietitian.

Sections 18 and 33 of this bill require the Board to charge and collect certain fees relating to the issuance of licenses and to carry out its other duties.

Section 23 of this bill authorizes the Board to issue a provisional license to a person who does not meet all the qualifications for licensure under certain circumstances. **Section 24** of this bill authorizes the Board to issue a temporary license to a person for the limited purpose of treating patients in this State for a limited period under certain circumstances.

Sections 34-44 of this bill govern disciplinary proceedings against a licensed dietitian and authorize the Board to suspend or revoke a license or deny an application for a license under certain circumstances. **Section 45** of this bill prohibits a person who is not licensed pursuant to the provisions of this bill from acting or holding himself or herself out as a licensed dietitian. **Section 46** of this bill provides that a violation of any provision of this bill is a misdemeanor and, in addition to any criminal penalty that may be imposed, authorizes the Board to impose a civil penalty for each violation.

Sections 47-51 and 58-60 of this bill include licensed dietitians in the definition of "provider of health care" to ensure that licensed dietitians

comply with the same requirements for standards of care, medical records and medical devices as other providers of health care such as doctors or nurses.

Sections 52-54 of this bill require a licensed dietitian to report suspected incidents of abuse or neglect of an older or vulnerable person, and require a report to be forwarded to the Board if a licensed dietitian is suspected of abuse or neglect of an older or vulnerable person.

~~[Section 63 of this bill authorizes the Governor, for the initial appointments to the Board, to appoint persons who are not licensed dietitians but who meet the qualifications for licensure.]~~ **Section 64** of this bill requires the Board to grant a license to engage in the practice of dietetics to a person who does not meet the qualifications for licensure but who was engaged in the practice of dietetics in this State before 2012 and meets certain other requirements.

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 1.5 to 46, inclusive, of this act.

Sec. 1.5. ***The Legislature hereby declares that the practice of dietetics is a learned profession affecting the safety, health and welfare of the public and is subject to regulation to protect the public from the practice of dietetics by unqualified and unlicensed persons and from unprofessional conduct by persons licensed to practice dietetics.*** ~~*[The Legislature further declares that the purpose of the State Board of Dietetics is to regulate the practice of dietetics and to enforce the provisions of this chapter.]*~~

Sec. 2. ***As used in this chapter, 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. ***"Board" means the State Board of*** ~~*[Dietetics.]*~~ ***Health.***

Sec. 4. ***"Licensed dietitian" means a person licensed pursuant to this chapter to engage in the practice of dietetics or to provide nutrition services, including, without limitation, medical nutrition therapy.***

Sec. 4.5. ***"Medical nutrition therapy" means the use of nutrition services by a licensed dietitian to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient.***

Sec. 5. ***"Nutrition services" means the performance of acts designated by the Board which are within the practice of dietetics.***

Sec. 6. ***1. "Practice of dietetics" means the performance of any act in the nutrition care process, including, without limitation, assessment, evaluation, diagnosis, counseling, intervention, monitoring and treatment, of a person which requires substantial specialized judgment and skill based on the knowledge, application and integration of the principles derived from the sciences of food, nutrition, management, communication, biology,***

behavior, physiology and social science to achieve and maintain proper nourishment and care of the health of the person.

2. The term does not include acts of medical diagnosis.

Sec. 7. (Deleted by amendment.)

Sec. 8. ***"Registered dietitian" means a person who is registered as a dietitian by the Commission on Dietetic Registration of the American Dietetic Association.***

Sec. 9. ***1. The provisions of this chapter do not apply to:***

(a) Any person who is licensed or registered in this State as a physician pursuant to chapter 630, 630A or 633 of NRS, dentist, nurse, dispensing optician, optometrist, occupational therapist, practitioner of respiratory care, physical therapist, podiatric physician, psychologist, marriage and family therapist, chiropractor, athletic trainer, massage therapist, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician or pharmacist who:

(1) Practices within the scope of that license or registration;

(2) Does not represent that he or she is a licensed dietitian or registered *dietitian; and*

(3) Provides nutrition information incidental to the practice for which he or she is licensed or registered.

(b) A student enrolled in an educational program accredited by the Commission on Accreditation for Dietetics Education of the American Dietetic Association, if the student engages in the practice of dietetics under the supervision of a licensed dietitian or registered dietitian as part of that educational program.

(c) A registered dietitian employed by the Armed Forces of the United States, the United States Department of Veterans Affairs or any division or department of the Federal Government in the discharge of his or her official duties, including, without limitation, the practice of dietetics or providing nutrition services.

(d) A person who furnishes nutrition information , provides recommendations or advice concerning nutrition, or markets food, food materials or dietary supplements and provides nutrition information , recommendations or advice related to that marketing, if the person ~~[is not engaged in the practice of dietetics and does not provide nutrition services.]~~ does not represent that he or she is a licensed dietitian or registered dietitian. While performing acts described in this paragraph, a person shall be deemed not to be engaged in the practice of dietetics or the providing of nutrition services.

(e) A person who provides services relating to weight loss or weight control through a program reviewed by and in consultation with a licensed dietitian or physician or a dietitian licensed or registered in another state which has equivalent licensure requirements as this State, as long as the person does not change the services or program without the approval of the person with whom he or she is consulting.

2. As used in this section, "nutrition information" means information relating to the principles of nutrition and the effect of nutrition on the human body, including, without limitation:

(a) Food preparation;

(b) Food included in a normal daily diet;

(c) Essential nutrients required by the human body and recommended amounts of essential nutrients, based on nationally established standards;

(d) The effect of nutrients on the human body and the effect of deficiencies in or excess amounts of nutrients in the human body; and

(e) Specific foods or supplements that are sources of essential nutrients.

Sec. 10. *1. The purpose of licensing dietitians is to protect the public health, safety and welfare of the people of this State.*

2. Any license issued pursuant to this chapter is a revocable privilege.

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. *1. The Board shall make and keep a complete record of all its proceedings ~~[,]~~ pursuant to this chapter, including, without limitation:*

(a) A file of all applications for licenses pursuant to this chapter, together with the action of the Board upon each application;

(b) A register of all licensed dietitians in this State; and

(c) Documentation of any disciplinary action taken by the Board against a licensee.

2. The Board shall maintain in its main office a public docket or other record in which it shall record, from time to time as made, the rulings or decisions upon all complaints filed with the Board and all investigations instituted by it, upon or in connection with which any hearing has been held or in which the licensee charged has made no defense.

Sec. 18. *1. The Board ~~[shall:]~~ may:*

(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 engage in the practice of dietetics.

(2) Of professional conduct for the practice of dietetics.

(b) Investigate and determine the eligibility of an applicant for a license pursuant to this chapter.

(c) Carry out and enforce the provisions of this chapter and the regulations adopted pursuant thereto.

2. The Board shall adopt regulations establishing reasonable:

(a) Qualifications for the issuance of a license pursuant to this chapter.

(b) Standards for the continuing professional competence of licensees. The Board may evaluate licensees periodically for compliance with those standards.

3. The Board shall adopt regulations establishing a schedule of reasonable fees and charges for:

(a) Investigating licensees and applicants for a license pursuant to this chapter;

(b) Evaluating the professional competence of licensees;

(c) Conducting hearings pursuant to this chapter;

(d) Duplicating and verifying records of the Board; and

(e) Surveying, evaluating and approving schools and courses of dietetics,

➥ and may collect the fees established pursuant to this subsection.

4. The Board may adopt such other regulations as it determines necessary ~~[:~~

~~(a) For its own government; and~~

~~(b) To]~~ to carry out the provisions of this chapter relating to the practice of dietetics.

Sec. 19. *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 the practice of dietetics.

Sec. 19.5. 1. The Board may establish a Dietitian Advisory Group consisting of persons familiar with the practice of dietetics to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Dietitian Advisory Group is established, the Board shall:

(a) Determine the number of members;

(b) Appoint the members;

(c) Establish the terms of the members; and

(d) Determine the duties of the Dietitian Advisory Group.

2. Members of a Dietitian Advisory Group established pursuant to subsection 1 serve without compensation.

Sec. 20. *1. An applicant for a license to engage in the practice of dietetics in this State must submit to the Board a completed application on a form prescribed by the Board. The application must include, without limitation, written evidence that the applicant:*

(a) Is 21 years of age or older.

(b) Is of good moral character.

(c) Has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:

(1) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(2) Is located in a foreign country if the application includes the documentation required by section 21 of this act.

(d) Has completed not less than 1,200 hours of training and experience within the United States in the practice of dietetics under the direct supervision of a licensed dietitian, registered dietitian or a person who holds a doctorate degree in human nutrition, nutrition education, food and nutrition, dietetics or food systems management from a college or university that is:

(1) Accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(2) Located in a foreign country if the application includes the documentation required by section 21 of this act.

(e) Has successfully completed the Registration Examination for Dietitians administered by the Commission on Dietetic Registration of the American Dietetic Association.

(f) Meets such other reasonable requirements as prescribed by the Board.

2. Each applicant must remit the applicable fee required pursuant to this chapter with the application for a license to engage in the practice of dietetics in this State.

3. Each applicant shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report. The Central Repository for Nevada Records of Criminal History shall determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the Board of whether the applicant has been convicted of such a crime.

Sec. 21. *1. If an applicant for a license to engage in the practice of dietetics is a graduate of a college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.*

2. If an applicant for a license to engage in the practice of dietetics completed his or her hours of training and experience under the supervision of a person who holds a doctorate degree conferred by a

college or university located in a foreign country, the applicant must include with his or her application a written statement or other proof from the Council for Higher Education Accreditation or its successor organization that the degree held by the person who supervised the training and experience is equivalent to a degree issued by a college or university accredited by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education.

Sec. 22. ***1. A person who has the education and experience required by section 20 of this act but who has not passed the examination required for licensure may engage in the practice of dietetics under the direct supervision of a licensed dietitian who is professionally and legally responsible for the applicant's performance.***

2. A person shall not engage in the practice of dietetics pursuant to subsection 1 for a period of more than 1 year.

Sec. 23. ***1. Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a provisional license to engage in the practice of dietetics in this State to an applicant who provides evidence to the Board that the applicant has completed a course of study and holds a bachelor's degree or higher in human nutrition, nutrition education, food and nutrition, dietetics, food systems management or an equivalent course of study approved by the Board from a college or university that:***

(a) Was accredited, at the time the degree was received, by a regional accreditation body in the United States which is recognized by the Council for Higher Education Accreditation, or its successor organization, and the United States Department of Education; or

(b) Is located in a foreign country if the application includes the documentation required by section 21 of this act.

2. A provisional license is valid for 1 year after the date of issuance. A provisional license may be renewed for not more than 6 months if the applicant submits evidence satisfactory to the Board for the failure of the applicant to obtain a license to engage in the practice of dietetics during the time the applicant held the provisional license.

3. A person who holds a provisional license may engage in the practice of dietetics only under the supervision of a licensed dietitian.

Sec. 24. ***1. Upon application and payment of the applicable fee required pursuant to this chapter, the Board may grant a temporary license to engage in the practice of dietetics in this State to a person who holds a corresponding license in another jurisdiction if:***

(a) The corresponding license is in good standing; and

(b) The requirements for licensure in the other jurisdiction are substantially equal to the requirements for licensure in this State.

2. A temporary license may be issued for the limited purpose of authorizing the licensee to treat patients in this State.

3. A temporary license is valid for the 10-day period designated on the license.

Sec. 25. (Deleted by amendment.)

Sec. 26. ***1. In addition to any other requirements set forth in this chapter:***

(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board 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 Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to engage in the practice of dietetics may not be issued or renewed by the Board 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 Board 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. ***1. A licensed dietitian shall provide nutrition services to assist a person in achieving and maintaining proper nourishment and care of his or her body, including, without limitation:***

(a) Assessing the nutritional needs of a person and determining resources for and constraints in meeting those needs by obtaining, verifying and interpreting data;

(b) Determining the metabolism of a person and identifying the food, nutrients and supplements necessary for growth, development, maintenance or attainment of proper nourishment of the person;

(c) Considering the cultural background and socioeconomic needs of a person in achieving or maintaining proper nourishment;

(d) Identifying and labeling nutritional problems of a person;

(e) Recommending the appropriate method of obtaining proper nourishment, including, without limitation, orally, intravenously or through a feeding tube;

(f) Providing counseling, advice and assistance concerning health and disease with respect to the nutritional intake of a person;

(g) Establishing priorities, goals and objectives that meet the nutritional needs of a person and are consistent with the resources of the person, including, without limitation, providing instruction on meal preparation;

(h) Treating nutritional problems of a person and identifying patient outcomes to determine the progress made by the person;

(i) Planning activities to change the behavior, risk factors, environmental conditions or other aspects of the health and nutrition of a person, a group of persons or the community at large;

(j) Developing, implementing and managing systems to provide care related to nutrition;

(k) Evaluating and maintaining appropriate standards of quality in the services provided;

(l) Accepting and transmitting verbal and electronic orders from a physician consistent with an established protocol to implement medical nutrition therapy; and

(m) Ordering medical laboratory tests relating to the therapeutic treatment concerning the nutritional needs of a patient when authorized to do so by a written protocol prepared or approved by a physician.

2. A licensed dietitian may use medical nutrition therapy to manage, treat or rehabilitate a disease, illness, injury or medical condition of a patient, including, without limitation:

(a) Interpreting data and recommending the nutritional needs of the patient through methods such as diet, feeding tube, intravenous solutions or specialized oral feedings;

(b) Determining the interaction between food and drugs prescribed to the patient; and

(c) Developing and managing operations to provide food, care and treatment programs prescribed by a physician, physician assistant, dentist, advanced practitioner of nursing or podiatric physician that monitor or alter the food and nutrient levels of the patient.

3. A licensed dietitian shall not provide medical diagnosis of the health of a person.

Sec. 28. (Deleted by amendment.)

Sec. 29. ***1. Except as otherwise provided in subsection 2, the Board may waive any requirement of section 20 or 23 of this act for an applicant who proves to the satisfaction of the Board that his or her education and experience are substantially equivalent to the education and experience required by the respective section.***

2. The Board may waive the requirement of an examination that is set forth in section 20 of this act in accordance with regulations adopted by the Board that prescribe the circumstances under which the Board may waive the requirement of the examination.

Sec. 30. (Deleted by amendment.)

Sec. 31. ***1. A license to engage in the practice of dietetics expires 2 years after the date of issuance.***

2. The Board may renew a license if the applicant:

(a) Submits a completed written application and the appropriate fee required pursuant to this chapter;

(b) Submits documentation of completion of such continuing training and education as required by regulations adopted by the Board;

(c) Has not committed any act which is grounds for disciplinary action, unless the Board determines that sufficient restitution has been made or the act was not substantially related to the practice of dietetics;

(d) Submits information that the credentials of the applicant are in good standing; and

(e) Submits all other information required to complete the renewal.

3. The Board shall require a licensed dietitian who fails to submit an application for the renewal of his or her license within 2 years after the date of the expiration of the license to take the examination required by section 20 of this act before renewing the license.

Sec. 32. ***The Board shall act upon an application for a license submitted pursuant to this chapter without unnecessary delay. If an applicant is found qualified, the applicant must be issued a license to engage in the practice of dietetics.***

Sec. 33. ***1. The Board shall adopt regulations establishing reasonable fees for:***

(a) The examination of an applicant for a license;

(b) The issuance of a license;

(c) The issuance of a provisional license;

(d) The issuance of a temporary license;

(e) The renewal of a license;

(f) The late renewal of a license;

(g) The reinstatement of a license which has been suspended or revoked; and

(h) The issuance of a duplicate license or for changing the name on a license.

2. The fees established pursuant to subsection 1 must be set in such an amount as to reimburse the Board for the cost of carrying out the provisions of this chapter ~~.~~ , except that no such fee may exceed $250.

Sec. 34. ***1. The Board may deny, refuse to renew, revoke or suspend any license applied for or issued pursuant to this chapter, or take such other disciplinary action against a licensee as authorized by regulations adopted by the Board, upon determining that the licensee:***

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license pursuant to this chapter.

(b) Is guilty of any offense:

(1) Involving moral turpitude; or

(2) Relating to the qualifications, functions or duties of a licensee.

(c) 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.

(d) Is guilty of unprofessional conduct, which includes, without limitation:

(1) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license.

(2) Impersonating another licensed dietitian.

(3) Permitting or allowing another person to use his or her license to engage in the practice of dietetics.

(4) Repeated malpractice, which may be evidenced by claims of malpractice settled against the licensee.

(5) Physical, verbal or psychological abuse of a patient.

(6) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

(e) Has willfully or repeatedly violated any provision of this chapter.

(f) Is guilty of aiding or abetting any person in violating any provision of this chapter.

(g) Has been disciplined in another state in connection with the practice of dietetics or has committed an act in another state which would constitute a violation of this chapter.

(h) Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

(i) Has willfully failed to comply with a regulation, subpoena or order of the Board.

2. In addition to any criminal or civil penalty that may be imposed pursuant to this chapter, the Board may assess against and collect from a licensee all costs incurred by the Board in connection with any disciplinary action taken against the licensee, including, without limitation, costs for investigators and stenographers, attorney's fees and other costs of the hearing.

3. 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. 35. *1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and*

permits issued to a person who is the holder of a license issued pursuant to this chapter, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license issued pursuant to this chapter that has been suspended by a district court pursuant to NRS 425.540 if:

(a) The Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560; and

(b) The person whose license was suspended pays the appropriate fee required pursuant to this chapter.

Sec. 36. ***1. ~~[Before suspending or revoking any license or taking other disciplinary action against a licensee, the Board shall cause an administrative complaint to be filed against the licensee. The]~~ If any member of the Board or a Dietitian Advisory Group established pursuant to section 19.5 of this act becomes aware of any ground for initiating disciplinary action against a licensee, the member shall file an administrative complaint with the Board.***

2. As soon as practical after receiving an administrative complaint, the Board shall ~~[notify]~~ :

(a) Notify the licensee in writing of the charges against him or her, accompanying the notice with a copy of the administrative complaint ~~[.]~~ ; and

(b) Forward a copy of the complaint to the Commission on Dietetic Registration of the American Dietetic Association or its successor organization for investigation of the complaint and request a written report of the findings of the investigation or, to the extent money is available to do so, conduct an investigation of the complaint to determine whether the allegations in the complaint merit the initiation of disciplinary proceedings against the licensee.

~~[2.]~~ 3. Written notice to the licensee may be served by delivering it personally to the licensee, or by mailing it by registered or certified mail to the last known residential address of the licensee.

~~[3.]~~ 4. If the licensee, after receiving a copy of the administrative complaint pursuant to subsection 1, submits a written request, the Board shall furnish the licensee with a copy of each communication, report and affidavit in the possession of the Board which relates to the matter in question.

~~*[4. As soon as practicable after the filing of the administrative complaint.]*~~

5. If, after an investigation conducted by the Board or receiving the findings from an investigation of the complaint from the Commission on Dietetic Registration of the American Dietetic Association or its successor organization, the Board determines that the administrative complaint is valid, the Board shall hold a hearing on the charges at such time and place as the Board prescribes. If the Board receives a report pursuant to subsection 5 of NRS 228.420, the hearing must be held within 30 days after receiving the report. If requested by the licensee, the hearing must be held within the county in which the licensee resides.

Sec. 37. ***The Board may delegate its authority to conduct hearings pursuant to section 36 of this act concerning the discipline of a licensee to a hearing officer. The hearing officer has the powers of the Board in connection with such hearings, and shall report to the Board his or her findings of fact and conclusions of law within 30 days after the final hearing on the matter. The Board may take action based upon the report of the hearing officer, refer the matter to the hearing officer for further hearings or conduct its own hearings on the matter.***

Sec. 38. ***The Board may:***

1. Issue subpoenas for the attendance of witnesses and the production of books, papers and documents; and

2. Administer oaths when taking testimony in any matter relating to the duties of the Board . ~~[; and~~

~~*3. Adopt a seal which must be judicially noticed by the courts of this State.]*~~

Sec. 39. ***1. The district court in and for the county in which any hearing is held by the Board may compel the attendance of witnesses, the giving of testimony and the production of books, papers and documents as required by any subpoena issued by the Board.***

2. In case of the refusal of any witness to attend or testify or produce any books, papers or documents required by a subpoena, the Board may report to the district court in and for the county in which the hearing is pending, by petition setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of books, papers or documents;

(b) That the witness has been subpoenaed in the manner prescribed by this chapter; and

(c) That the witness has failed and refused to attend or produce the books, papers or documents required by the subpoena before the Board in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the hearing,

➥ and ask an order of the court compelling the witness to attend and testify or produce the books, papers or documents before the Board.

3. The court, upon petition of the Board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in the order, the time to be not more than 10 days after the date of the order, to show cause why the witness has not attended or testified or produced the books, papers or documents before the Board. A certified copy of the order must be served upon the witness.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order that the witness appear before the Board at the time and place fixed in the order and testify or produce the required books, papers or documents. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

Sec. 40. *1. The Board shall render a decision on any administrative complaint within 60 days after the final hearing thereon. For the purposes of this subsection, the final hearing on a matter delegated to a hearing officer pursuant to section 37 of this act is the final hearing conducted by the hearing officer unless the Board conducts a hearing with regard to the administrative complaint.*

2. The Board shall notify the licensee of its decision in writing by certified mail, return receipt requested. The decision of the Board becomes effective on the date the licensee receives the notice or on the date the Board receives a notice from the United States Postal Service stating that the licensee refused to accept delivery or could not be located.

Sec. 41. **(Deleted by amendment.)**

Sec. 42. *1. Any licensee whose license ~~[was]~~ **is** revoked by the Board may apply for reinstatement of the license pursuant to ~~[the provisions of chapter 622A of NRS.~~*

*~~2. In addition to the requirements for reinstatement of the license pursuant to chapter 622A of NRS, the]~~ **regulations adopted by the Board.***

***2. The** Board may reinstate the license upon **compliance by the licensee with all requirements for reinstatement established by regulations adopted by the Board and** payment of the applicable fee required pursuant to this chapter.*

Sec. 43. *1. Except as otherwise provided in this section and NRS 239.0115, any records or information obtained during the course of an investigation by the Board and any record of the investigation are confidential.*

2. Any 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 disciplinary action are public records.

3. This section does not prevent or prohibit the Board from communicating or cooperating with another licensing board or any agency that is investigating a licensee, including a law enforcement agency.

Sec. 44. *If the Board, based on evidence satisfactory to it, believes that any person has violated or is about to violate any provision of this chapter,*

the terms of any license, or any order, decision, demand or requirement, or any part thereof, the Board may bring an action, in the name of the Board, in the district court in and for the county in which the person resides, against the person to enjoin the person from continuing the violation or engaging in any act that constitutes such a violation. The court may enter an order or judgment granting such injunctive relief as it determines proper, but no such injunctive relief may be granted without at least 5 days' notice to the opposite party.

Sec. 45. ***If a person is not licensed to engage in the practice of dietetics pursuant to this chapter, or if a person's license to engage in the practice of dietetics has been suspended or revoked by the Board, the person shall not:***

1. Engage in the practice of dietetics;

2. Use in connection with his or her name the words or letters "L.D.," "licensed dietitian," ~~[," "L.N.," "licensed nutritionist,"]~~ or any other letters, words or insignia indicating or implying that he or she is licensed to engage in the practice of dietetics, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the word "dietetics" ~~[or "nutritionist"]~~ or represent himself or herself as licensed or qualified to engage in the practice of dietetics in this State; or

3. List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading "Dietitian" ~~[or "Nutritionist"]~~ or any other term that indicates or implies that he or she is licensed or qualified to engage in the practice of dietetics in this State.

Sec. 46. ***1. A person who violates any provision of this chapter or any regulation adopted pursuant thereto is guilty of a misdemeanor.***

2. In addition to any criminal penalty that may be imposed pursuant to subsection 1, the Board may, after notice and hearing, impose a civil penalty of not more than $100 for each such violation. For the purposes of this subsection, each day on which a violation occurs constitutes a separate offense, except that the aggregate civil penalty that may be imposed against a person pursuant to this subsection may not exceed $10,000.

Sec. 47. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist***,*** ***licensed dietitian*** or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 48. NRS 7.095 is hereby amended to read as follows:

7.095 1. An attorney shall not contract for or collect a fee contingent on the amount of recovery for representing a person seeking damages in connection with an action for injury or death against a provider of health care based upon professional negligence in excess of:

(a) Forty percent of the first $50,000 recovered;

(b) Thirty-three and one-third percent of the next $50,000 recovered;

(c) Twenty-five percent of the next $500,000 recovered; and

(d) Fifteen percent of the amount of recovery that exceeds $600,000.

2. The limitations set forth in subsection 1 apply to all forms of recovery, including, without limitation, settlement, arbitration and judgment.

3. For the purposes of this section, "recovered" means the net sum recovered by the plaintiff after deducting any disbursements or costs incurred in connection with the prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and general and administrative expenses incurred by the office of the attorney are not deductible disbursements or costs.

4. As used in this section:

(a) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(b) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, registered nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, ***licensed dietitian*** or a licensed hospital and its employees.

Sec. 49. NRS 41A.017 is hereby amended to read as follows:

41A.017 "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, ***licensed dietitian*** or a licensed hospital and its employees.

Sec. 50. NRS 42.021 is hereby amended to read as follows:

42.021 1. In an action for injury or death against a provider of health care based upon professional negligence, if the defendant so elects, the defendant may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the injury or death pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract

or agreement of any group, organization, partnership or corporation to provide, pay for or reimburse the cost of medical, hospital, dental or other health care services. If the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount that the plaintiff has paid or contributed to secure the plaintiff's right to any insurance benefits concerning which the defendant has introduced evidence.

2. A source of collateral benefits introduced pursuant to subsection 1 may not:

(a) Recover any amount against the plaintiff; or

(b) Be subrogated to the rights of the plaintiff against a defendant.

3. In an action for injury or death against a provider of health care based upon professional negligence, a district court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds $50,000 in future damages.

4. In entering a judgment ordering the payment of future damages by periodic payments pursuant to subsection 3, the court shall make a specific finding as to the dollar amount of periodic payments that will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require a judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

5. A judgment ordering the payment of future damages by periodic payments entered pursuant to subsection 3 must specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments will be made. Such payments must only be subject to modification in the event of the death of the judgment creditor. Money damages awarded for loss of future earnings must not be reduced or payments terminated by reason of the death of the judgment creditor, but must be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately before the judgment creditor's death. In such cases, the court that rendered the original judgment may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subsection.

6. If the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the periodic payments as specified pursuant to subsection 5, the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including, but not limited to, court costs and attorney's fees.

7. Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments ceases and any security given pursuant to subsection 4 reverts to the judgment debtor.

8. As used in this section:

(a) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(b) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(c) "Professional negligence" means a negligent act or omission to act by a provider of health care in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death. The term does not include services that are outside the scope of services for which the provider of health care is licensed or services for which any restriction has been imposed by the applicable regulatory board or health care facility.

(d) "Provider of health care" means a physician licensed under chapter 630 or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, registered physical therapist, podiatric physician, licensed psychologist, chiropractor, doctor of Oriental medicine, medical laboratory director or technician, ***licensed dietitian*** or a licensed hospital and its employees.

Sec. 51. 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 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 ***, a licensed dietitian*** 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. 52. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician ***, licensed dietitian*** or other person providing medical services licensed or certified to practice in this State, who

examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(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, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 53. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician ***, licensed dietitian*** or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon

notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 54. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

➥ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse,

neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his or her estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, ***or sections 1.5 to 46, inclusive, of this act, the*** information contained in the report must be submitted to the board that issued the license.

Sec. 55. **(Deleted by amendment.)**

Sec. 56. **(Deleted by amendment.)**

Sec. 57. **(Deleted by amendment.)**

Sec. 58. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor ***, licensed dietitian*** or doctor of Oriental medicine in any form.

Sec. 59. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his or her scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, perfusionist, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered

physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor ***, licensed dietitian*** or doctor of Oriental medicine in any form.

Sec. 60. NRS 442.003 is hereby amended to read as follows:

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

1. "Advisory Board" means the Advisory Board on Maternal and Child Health.
2. "Department" means the Department of Health and Human Services.
3. "Director" means the Director of the Department.
4. "Fetal alcohol syndrome" includes fetal alcohol effects.
5. "Health Division" means the Health Division of the Department.
6. "Obstetric center" has the meaning ascribed to it in NRS 449.0155.
7. "Provider of health care or other services" means:

(a) A clinical alcohol and drug abuse counselor who is licensed, or an alcohol and drug abuse counselor who is licensed or certified, pursuant to chapter 641C of NRS;

(b) A physician or a physician assistant who is licensed pursuant to chapter 630 or 633 of NRS and who practices in the area of obstetrics and gynecology, family practice, internal medicine, pediatrics or psychiatry;

(c) A licensed nurse;

(d) A licensed psychologist;

(e) A licensed marriage and family therapist;

(f) A licensed clinical professional counselor;

(g) A licensed social worker; ~~[or]~~

(h) ***A licensed dietitian; or***

(i) The holder of a certificate of registration as a pharmacist.

Sec. 61. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to 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 ~~[.]~~ ***and sections 1.5 to 46, inclusive, of this act.***

Sec. 62. 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 ~~[~~:

~~(a) An applicant for the issuance of a license to engage in the practice of dietetics in this State shall include the social security number of the applicant in the application submitted to the Board.~~

~~(b) An~~] ***, an*** applicant for the issuance or renewal of a license to engage in the practice of dietetics in this State shall submit to the Board 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 Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to engage in the practice of dietetics may not be issued or renewed by the Board 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 Board 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. 63. **(Deleted by amendment.)**

Sec. 63.5. **Except for the suspension of a license pursuant to section 35 of this act, no disciplinary action may be initiated, investigated or imposed pursuant to sections 1.5 to 46, inclusive, of this act before July 1, 2013.**

Sec. 64. Notwithstanding the provisions of section 20 of this act, the State Board of ~~[Dietetics]~~ **Health** shall grant a license to engage in the practice of dietetics in this state without examination to a person who:

1. Was engaged in the practice of dietetics in this State on or before January 1, 2012;

2. Submits an application for a license to the Board on or before January 1, 2013; and

3. Presents proof that the person:

(a) Is a registered dietitian; or

(b) Meets the education and experience requirements set forth in section 20 of this act.

Sec. 65. 1. This section and sections 11 and 63 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, 12 to 61, inclusive, **63.5** and 64 of this act become effective on July 1, 2011, for the purpose of adopting regulations and carrying out any other administrative tasks, and on January 1, 2012, for all other purposes.

3. Section 62 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.

4. Sections 35 and 62 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 Schneider moved the adoption of the amendment.

Remarks by Senators Schneider and McGinness.

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

SENATOR SCHNEIDER:

Amendment No. 709 to Assembly Bill No. 289 provides for the licensure of dieticians by the State Board of Health instead of creating a new State Board of Dieticians.

The amendment further clarifies persons who are not covered by the bill, such as occupational therapists, massage therapists and persons who provide recommendations or advice concerning nutrition.

SENATOR MCGINNESS:

Thank you, Mr. President. On page 4, line 32, "person who furnishes nutrition information, provides recommendations or advice concerning nutrition." I have had some concerns from health food stores. Are they in this bill or out of it?

SENATOR SCHNEIDER:

Thank you, Mr. President. We went through the bill with a fine-tooth comb. We have taken everyone out of this bill. The health food store is gone.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 291.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 678.

"SUMMARY—Makes certain agreements between heir finders and apparent heirs relating to the recovery of property in an estate void and unenforceable under certain circumstances. (BDR 12-306)"

"AN ACT relating to estates; making certain agreements between an heir finder and an apparent heir relating to the recovery of property in an estate void and unenforceable under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill provides that an agreement between an heir finder and an apparent heir relating to the recovery of property in an estate for which the public administrator petitioned for letters of administration is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until ~~[6 months]~~ **90 days** thereafter.

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

Section 1. Chapter 139 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An agreement between an heir finder and an apparent heir, the primary purpose of which is to locate, recover or assist in the recovery of an estate for which the public administrator has petitioned for letters of administration, is void and unenforceable if the agreement is entered into during the period beginning with the death of the person whose estate is in probate until ~~[6 months]~~ 90 days thereafter.

2. As used in this section, "heir finder" means a person who, for payment of a fee, assignment of a portion of any interest in a decedent's estate or other consideration, provides information, assistance, forensic genealogy research or other efforts related to another person's right to or interest in a decedent's estate. The term does not include:

(a) A person acting in the capacity of a personal representative or guardian ad litem;

(b) A person appointed to perform services by a probate court in which a proceeding in connection with a decedent's estate is pending; or

(c) An attorney providing legal services to a decedent's family member if the attorney has not agreed to pay to any other person a portion of the fees received from the family member or the family member's interest in the decedent's estate.

Sec. 2. The provisions of this act apply to agreements described in section 1 of this act that are entered into on or after July 1, 2011.

Sec. 3. 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 changes from 6 months to 90 days the period of time in which an heir finder may not enter into an agreement with an apparent heir concerning an estate that is in probate.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 301.

Bill read second time.

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

Amendment No. 688.

"SUMMARY—Revises provisions governing the restoration of civil rights for ex-felons. (BDR 16-687)"

"AN ACT relating to civil rights; revising provisions governing the restoration of the right to vote to persons who have been convicted of a felony; revising provisions governing the registration to vote of a person convicted of a felony; revising provisions governing the cancellation of the registration to vote of a person convicted of a felony; revising provisions governing a challenge to the right to vote of a person convicted of a felony; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a county clerk to cancel the registration to vote of a person who has been convicted of a felony unless the person's right to vote has been restored: (1) under the laws of this State; or (2) if the conviction occurred in another state, under the laws of that state. (NRS 293.540) Under existing law, unless a person has been convicted of certain specified felonies, a person who has been convicted of a felony is restored to the right to vote upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon ~~[;]~~ **with the restoration of the right to vote;** (4) an honorable discharge from parole; or (5) being released from prison because of the expiration of his or her sentence. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) **Sections 4, 5 and 7** of this bill remove all exceptions to the restoration of the right to vote of a person convicted of a felony so that any person convicted of a felony in this State is restored to the right to vote upon: (1) an honorable discharge from probation; (2) the sealing of his or her records by a court; (3) the granting of a pardon ~~[;]~~ **with the restoration of the right to vote;** (4) an honorable discharge from parole; or (5) the completion of his or her sentence and release from prison.

Sections 10-15 of this bill revise provisions relating to voter registration. Under existing law, the civil right to vote of a person who is resident of this State and who has been convicted of a felony in another state is determined by the law of that other state. (NRS 293.540) **Section 10.3** of this bill provides that a resident of this State who was convicted of a felony in another state is restored to the right to vote in this State if he or she: (1) has been

released from prison because of the expiration of his or her sentence; (2) has received a discharge from probation or parole which is not a dishonorable discharge; or (3) has received a pardon, or an order from a court of competent jurisdiction, which restores the person's civil right to vote. **Section 10.5** of this bill prohibits a county clerk from requiring a person seeking to register to vote to present documentation indicating that the person's right to vote has been restored following a conviction for a felony ~~[under the laws of]~~ **in** this State or another state. **Section 10.7** of this bill provides for an appeal to the Secretary of State and the district court if the county clerk cancels the voter registration of, or refuses to register, a person on the ground that the person is ineligible to vote because the person: (1) has been convicted of a felony ~~[under the laws of]~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored. **Section 12** revises the procedures to be followed by a county clerk upon a determination based on specific evidence that a person is ineligible to vote because the person: (1) has been convicted of a felony ~~[under the laws of]~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored. **Section 13** revises the procedure for reregistering a person to vote after a cancellation of the person's right to vote because of a felony conviction. **Section 14** revises the procedures to be followed by a county clerk, district attorney or court upon a receipt of a challenge providing that a person is ineligible to vote because the person: (1) has been convicted of a felony ~~[under the laws of]~~ **in** this State or another state; and (2) has not had his or her civil right to vote restored.

Section 16 of this bill specifies that the civil right to vote is restored to residents of this State who: (1) have not had their right to vote restored; (2) are not on probation or parole or serving a sentence of imprisonment on July 1, 2011; and (3) before July 1, 2011, were honorably discharged from probation or parole, pardoned with the restoration of the right to vote or released from prison after serving their sentences. Section 16 further provides that notification to such persons of the restoration of the civil right to vote is not required.

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. NRS 213.155 is hereby amended to read as follows:

213.155 1. ~~[Except as otherwise provided in subsection 2, a]~~ ***A*** person who receives an honorable discharge from parole pursuant to NRS 213.154:

(a) Is immediately restored to the ~~[following]~~ civil ~~[rights:~~

~~(1) The]~~ right to vote**.** ~~[, and~~

~~(2) The]~~

(b) Except as otherwise provided in subsection 2:

(1) Is immediately restored to the right to serve as a juror in a civil action.

~~[(b)]~~ ***(2)*** Four years after the date of his or her honorable discharge from parole, is restored to the right to hold office.

~~[(c)]~~ ***(3)*** Six years after the date of his or her honorable discharge from parole, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in ***paragraph (b) of*** subsection 1 are not restored to a person who has received an honorable discharge from parole if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her honorable discharge from parole.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her honorable discharge from parole.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➥ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in ***paragraph (b) of*** subsection 1.

3. ~~[Except for a person subject to the limitations set forth in subsection 2, upon]~~ ***Upon*** his or her honorable discharge from parole, a person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from parole;

(b) That the person has been restored to his or her civil ~~[rights]~~ ***right*** to vote ~~[and]~~ ***as of the date of his or her honorable discharge from parole; and***

(c) If the person is not subject to the limitations set forth in subsection 2:

(1) That the person has been restored to his or her civil right to serve as a juror in a civil action as of the date of his or her honorable discharge from parole;

~~[(c)]~~ ***(2)*** The date on which his or her civil right to hold office will be restored to the person pursuant to ***subparagraph (2) of*** paragraph (b) of subsection 1; and

~~[(d)]~~ ***(3)*** The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to ***subparagraph (3) of*** paragraph ~~[(c)]~~ ***(b)*** of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has been honorably discharged from parole in this State or elsewhere and whose

official documentation of his or her honorable discharge from parole is lost, damaged or destroyed may file a written request with ~~[a court of competent jurisdiction to restore]~~ ***the district court in and for the county in which the person resides for the issuance of an order declaring that*** his or her civil rights ***have been restored*** pursuant to this section. Upon verification that the person has been honorably discharged from parole and is eligible to be restored to ***any of*** the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights ~~[set forth in]~~ ***to which the person is entitled to be restored pursuant to*** ~~[subsection 1.]~~ ***this section.*** A person must not be required to pay a fee to receive such an order.

5. A person who has been honorably discharged from parole in this State or elsewhere may present:

(a) Official documentation of his or her honorable discharge from parole, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,

➥ as proof that the person has been restored to ***any of*** the civil rights set forth in ~~[subsection 1.]~~ ***this section.***

6. The Board may adopt regulations necessary or convenient for the purposes of this section.

Sec. 5. NRS 213.157 is hereby amended to read as follows:

213.157 1. ~~[Except as otherwise provided in subsection 2, a]~~ ***A*** person convicted of a felony in the State of Nevada who has ~~[served]~~ ***completed*** his or her sentence and has been released from prison:

(a) Is immediately restored to the ~~[following]~~ civil ~~[rights:~~

~~(1) The]~~ right to vote**.** ~~[; and~~

~~(2) The]~~

(b) Except as otherwise provided in subsection 2:

(1) Is immediately restored to the right to serve as a juror in a civil action.

~~[(b)]~~ ***(2)*** Four years after the date of his or her release from prison, is restored to the right to hold office.

~~[(c)]~~ ***(3)*** Six years after the date of his or her release from prison, is restored to the right to serve as a juror in a criminal action.

2. Except as otherwise provided in this subsection, the civil rights set forth in ***paragraph (b) of*** subsection 1 are not restored to a person who has been released from prison if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of his or her release from prison.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of his or her release from prison.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➥ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of his or her civil rights as set forth in ***paragraph (b) of*** subsection 1.

3. ~~[Except for a person subject to the limitations set forth in subsection 2, upon]~~ ***Upon*** his or her release from prison, a person so released must be given an official document which provides:

(a) That the person has been released from prison;

(b) That the person has been restored to his or her civil ~~[rights]~~ ***right*** to vote ~~[and]~~ ***as of the date of his or her release from prison; and***

(c) If the person is not subject to the limitations set forth in subsection 2:

(1) That the person has been restored to his or her civil right to serve as a juror in a civil action as of the date of his or her release from prison;

~~[(c)]~~ ***(2)*** The date on which his or her civil right to hold office will be restored to the person pursuant to ***subparagraph (2) of*** paragraph (b) of subsection 1; and

~~[(d)]~~ ***(3)*** The date on which his or her civil right to serve as a juror in a criminal action will be restored to the person pursuant to ***subparagraph (3) of*** paragraph ~~[(c)]~~ ***(b)*** of subsection 1.

4. Subject to the limitations set forth in subsection 2, a person who has ***completed his or her sentence and has*** been released from prison in this State or elsewhere and whose official documentation of his or her release from prison is lost, damaged or destroyed may file a written request with ~~[a court of competent jurisdiction to restore]~~ ***the district court in and for the county in which the person resides for the issuance of an order declaring that*** his or her civil rights ***have been restored*** pursuant to this section. Upon verification that the person has ***completed his or her sentence, has*** been released from prison and is eligible to be restored to ***any of*** the civil rights set forth in subsection 1, the court shall issue an order restoring the person to the civil rights ~~[set forth in]~~ ***to which the person is entitled to be restored pursuant to*** ~~[subsection 1.]~~ ***this section.*** A person must not be required to pay a fee to receive such an order.

5. A person who has ***completed his or her sentence and has*** been released from prison in this State or elsewhere may present:

(a) Official documentation of his or her ***completion of sentence and*** release from prison, if it contains the provisions set forth in subsection 3; or

(b) A court order restoring his or her civil rights,

➥ as proof that the person has been restored to ***any of*** the civil rights set forth in ~~[subsection 1.]~~ ***this section.***

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 176A.850 is hereby amended to read as follows:

176A.850 1. A person who:

(a) Has fulfilled the conditions of probation for the entire period thereof;

(b) Is recommended for earlier discharge by the Division; or

(c) Has demonstrated fitness for honorable discharge but because of economic hardship, verified by the Division, has been unable to make restitution as ordered by the court,

➥ may be granted an honorable discharge from probation by order of the court.

2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of discharge.

3. ~~[Except as otherwise provided in subsection 4, a]~~ ***A*** person who has been honorably discharged from probation:

(a) Is free from the terms and conditions of probation.

(b) Is immediately restored to the ~~[following]~~ civil ~~[rights:~~

~~(1) The]~~ right to vote**.** ~~[; and~~

~~(2) The]~~

(c) Except as otherwise provided in subsection 4:

(1) Is immediately restored to the right to serve as a juror in a civil action.

~~[(c)]~~ ***(2)*** Four years after the date of honorable discharge from probation, is restored to the right to hold office.

~~[(d)]~~ ***(3)*** Six years after the date of honorable discharge from probation, is restored to the right to serve as a juror in a criminal action.

~~[(e)]~~ ***(d)*** If the person meets the requirements of NRS 179.245, may apply to the court for the sealing of records relating to the conviction.

~~[(f)]~~ ***(e)*** Must be informed of the provisions of this section and NRS 179.245 in the person's probation papers.

~~[(g)]~~ ***(f)*** Is exempt from the requirements of chapter 179C of NRS, but is not exempt from the requirements of chapter 179D of NRS.

~~[(h)]~~ ***(g)*** Shall disclose the conviction to a gaming establishment and to the State and its agencies, departments, boards, commissions and political subdivisions, if required in an application for employment, license or other permit. As used in this paragraph, "establishment" has the meaning ascribed to it in NRS 463.0148.

~~[(i)]~~ ***(h)*** Except as otherwise provided in paragraph ~~[(h),]~~ ***(g),*** need not disclose the conviction to an employer or prospective employer.

4. Except as otherwise provided in this subsection, the civil rights set forth in ***paragraph (c) of*** subsection 3 are not restored to a person honorably discharged from probation if the person has previously been convicted in this State:

(a) Of a category A felony.

(b) Of an offense that would constitute a category A felony if committed as of the date of the honorable discharge from probation.

(c) Of a category B felony involving the use of force or violence that resulted in substantial bodily harm to the victim.

(d) Of an offense involving the use of force or violence that resulted in substantial bodily harm to the victim and that would constitute a category B felony if committed as of the date of honorable discharge from probation.

(e) Two or more times of a felony, unless a felony for which the person has been convicted arose out of the same act, transaction or occurrence as another felony, in which case the convictions for those felonies shall be deemed to constitute a single conviction for the purposes of this paragraph.

➥ A person described in this subsection may petition a court of competent jurisdiction for an order granting the restoration of civil rights as set forth in ***paragraph (c) of*** subsection 3.

5. The prior conviction of a person who has been honorably discharged from probation may be used for purposes of impeachment. In any subsequent prosecution of the person, the prior conviction may be pleaded and proved if otherwise admissible.

6. ~~[Except for a person subject to the limitations set forth in subsection 4, upon]~~ ***Upon*** honorable discharge from probation, the person so discharged must be given an official document which provides:

(a) That the person has received an honorable discharge from probation;

(b) That the person has been restored to his or her civil ~~[rights]~~ ***right*** to vote ~~[and]~~ ***as of the date of honorable discharge from probation; and***

(c) If the person is not subject to the limitations set forth in subsection 4:

(1) That the person has been restored to his or her civil right to serve as a juror in a civil action as of the date of honorable discharge from probation;

~~[(c)]~~ ***(2)*** The date on which the person's civil right to hold office will be restored pursuant to ***subparagraph (2) of*** paragraph (c) of subsection 3; and

~~[(d)]~~ ***(3)*** The date on which the person's civil right to serve as a juror in a criminal action will be restored pursuant to ***subparagraph (3) of*** paragraph ~~[(d)]~~ ***(c)*** of subsection 3.

7. Subject to the limitations set forth in subsection 4, a person who has been honorably discharged from probation in this State or elsewhere and whose official documentation of honorable discharge from probation is lost, damaged or destroyed may file a written request with ~~[a court of competent jurisdiction to restore the person's]~~ ***the district court in and for the county in which the person resides for the issuance of an order declaring that his or her*** civil rights ***have been restored*** pursuant to this section. Upon verification that the person has been honorably discharged from probation and is eligible to be restored to ***any of*** the civil rights set forth in subsection 3, the court shall issue an order restoring the person to the civil rights ~~[set forth in]~~ ***to which the person is entitled to be restored pursuant to*** ~~[subsection 3.]~~ ***this section.*** A person must not be required to pay a fee to receive such an order.

8. A person who has been honorably discharged from probation in this State or elsewhere may present:

(a) Official documentation of honorable discharge from probation, if it contains the provisions set forth in subsection 6; or

(b) A court order restoring the person's civil rights,

➥ as proof that the person has been restored to ***any of*** the civil rights set forth in ~~[subsection 3.]~~ ***this section.***

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 10.3, 10.5 and 10.7 of this act.

Sec. 10.3. ***A person who is a resident of this State and who has been convicted of a felony ~~[under the law of]~~ in another state is restored to the civil right to vote in this State if the person:***

1. Has been released from prison because of the completion of his or her sentence;

2. Has received a discharge from probation or parole which is not a dishonorable discharge or the equivalent thereof; or

3. Has received a pardon or an order from a court of competent jurisdiction which restores his or her civil right to vote.

Sec. 10.5. ***A county clerk shall not ask or require a person seeking to register to vote to present:***

1. A court order indicating that the person's civil right to vote has been restored following a conviction for a felony ~~[under the laws of]~~ in this State or another state; or

2. Any other documentation indicating that the person's civil right to vote has been restored following a conviction for a felony ~~[under the laws of]~~ in this State or another state.

Sec. 10.7. ***1. If a county clerk cancels the registration of a registrant pursuant to subsection 3 of NRS 293.540 or refuses to reregister an elector for a reason stated in subsection 2 of NRS 293.543, the registrant or elector may appeal to the Secretary of State by providing to the Secretary of State written notice of the appeal and any relevant evidence, which may include, without limitation, an affirmation under penalty of perjury that the registrant or elector is a lawful resident of this State and:***

(a) Has never been convicted of a felony ~~[under the laws of]~~ in this State or another state; or

(b) Has been convicted of a felony ~~[under the laws of]~~ in this State but has been restored to the civil right to vote pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or has been convicted of a felony ~~[under the laws of]~~ in another state but has been restored to the civil right to vote in this State pursuant to the provisions of section 10.3 of this act.

2. If the Secretary of State receives relevant evidence pursuant to subsection 1 and no other evidence exists to support the cancellation of the registration of the appellant or the refusal to reregister the appellant, the Secretary of State must issue an order that the appellant be registered to vote in the county of which the appellant is a resident.

3. If:

(a) The cancellation of the registration or refusal to reregister occurred more than 60 days before the date of any election and the Secretary of State does not issue an order pursuant to subsection 2 within 60 days after receipt of a notice of appeal and relevant evidence pursuant to subsection 1; or

(b) The cancellation of the registration or refusal to reregister occurred 60 days or less before the date of any election and the Secretary of State does not issue an order pursuant to subsection 2 within 40 days after receipt of a notice of appeal and relevant evidence pursuant to subsection 1,

➥ the registrant or elector who filed the appeal with the Secretary of State may bring a civil action for declaratory or injunctive relief in the district court in and for the county where the registrant or elector resides. The court shall give the civil action priority over other civil matters to which priority is not given by other provisions of NRS.

4. If, within 30 days before any election, a county clerk cancels the registration of a registrant pursuant to subsection 3 of NRS 293.540 or refuses to reregister an elector for a reason stated in subsection 2 of NRS 293.543, the registrant or elector may, without submitting an appeal to the Secretary of State pursuant to subsection 1, bring a civil action for declaratory or injunctive relief in the district court in and for the county where the registrant or elector resides. The court shall give the civil action priority over other civil matters to which priority is not given by other provisions of NRS.

Sec. 11. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in March.

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I

actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored *;* ~~[by a court of competent jurisdiction;]~~ that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ..... day of the month of ..... of the year .....

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....

State of Nevada
County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office

pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored ***;*** ~~[by a court of competent jurisdiction;]~~ that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ..... day of the month of ..... of the year .....

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his or her residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored *,* ~~[by a court of competent jurisdiction,]~~ the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored ***;*** ~~[by a court of competent jurisdiction;]~~ and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored *,* ~~[by a court of competent jurisdiction,]~~ the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 12. NRS 293.540 is hereby amended to read as follows:

293.540 The county clerk shall cancel the registration:

1. If the county clerk has personal knowledge of the death of the person registered, or if an authenticated certificate of the death of any elector is filed in the county clerk's office.

2. If the insanity or mental incompetence of the person registered is legally established.

3. Upon ~~[the]~~ ***a*** determination ***based on specific evidence*** that the person registered has been convicted of a felony unless:

(a) If the person registered was convicted of a felony in this State, the right to vote of the person has been restored pursuant to the provisions of **NRS** ***176A.850, 179.285,*** 213.090, 213.155 or 213.157.

(b) If the person registered was convicted of a felony in another state, the right to vote of the person has been restored pursuant to the ~~[laws of the state in which the person was convicted.]~~ ***provisions of section 10.3 of this act.***

➥ Before cancelling a registration pursuant to this subsection, the county clerk shall notify the registrant and provide to the registrant an affidavit which allows the registrant to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony ~~[under the laws of]~~ in this State or another state or , if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the registrant so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk may not cancel the registration unless the county clerk has specific, documentary evidence that the registrant is ineligible to vote in this State. If the registrant fails to respond within 30 days after receiving the notice pursuant to this subsection, the county clerk may cancel the registration.

4. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

5. Upon the request of any registered voter to affiliate with any political party or to change affiliation, if that change is made before the end of the last day to register to vote in the election.

6. At the request of the person registered.

7. If the county clerk has discovered an incorrect registration pursuant to the provisions of NRS 293.5235, 293.530 or 293.535 and the elector has failed to respond or appear to vote within the required time.

8. As required by NRS 293.541.

9. Upon verification that the application to register to vote is a duplicate if the county clerk has the original or another duplicate of the application on file in the county clerk's office.

Sec. 13. NRS 293.543 is hereby amended to read as follows:

293.543 1. If the registration of an elector is cancelled pursuant to subsection 2 of NRS 293.540, the county clerk shall reregister the elector upon notice from the clerk of the district court that the elector has been declared sane or mentally competent by the district court.

2. If the registration of an elector is cancelled pursuant to subsection 3 of NRS 293.540, the elector may reregister ~~[after presenting satisfactory evidence which demonstrates that the elector's:]~~ ***if:***

(a) ~~[Conviction]~~ ***The elector's conviction*** has been overturned; or

(b) ~~[Civil rights have been restored:~~

~~(1) If the elector was convicted in this State, pursuant to the provisions of NRS 213.090, 213.155 or 213.157.~~

~~(2) If the elector was convicted in another state, pursuant to the laws of the state in which he or she was convicted.~~] ***The elector has been restored to his or her civil right to vote in this State pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act.***

➥ ***A county clerk shall not require an elector seeking to reregister pursuant to this subsection to present any information or documentation other than the information and documentation required for a person to register to vote pursuant to this chapter, unless the county clerk has specific evidence that the elector has been convicted of a felony*** ~~*[under the laws of]*~~ ***in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the county clerk has or receives such specific evidence, the county clerk must notify the elector of that evidence and provide to the elector an affidavit which allows the elector to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony*** ~~*[under the laws of]*~~ ***in this State or another state or , if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the registrant so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk must reregister the elector.***

3. If the registration of an elector is cancelled pursuant to the provisions of subsection 5 of NRS 293.540, the elector may reregister immediately.

4. If the registration of an elector is cancelled pursuant to the provisions of subsection 6 of NRS 293.540, after the close of registration for a primary election, the elector may not reregister until after the primary election.

Sec. 14. NRS 293.547 is hereby amended to read as follows:

293.547 1. After the 30th day but not later than the 25th day before any election, a written challenge may be filed with the county clerk.

2. A registered voter may file a written challenge if:

(a) He or she is registered to vote in the same precinct as the person whose right to vote is challenged; and

(b) The challenge is based on the personal knowledge of the registered voter.

3. The challenge must be signed and verified by the registered voter and name the person whose right to vote is challenged and the ground of the challenge.

4. A challenge filed pursuant to this section must not contain the name of more than one person whose right to vote is challenged. The county clerk shall not accept for filing any challenge which contains more than one such name.

5. The county clerk shall:

(a) File the challenge in the registrar of voters' register and:

(1) In counties where records of registration are not kept by computer, he or she shall attach a copy of the challenge to the challenged registration in the election board register.

(2) In counties where records of registration are kept by computer, he or she shall have the challenge printed on the computer entry for the challenged registration and add a copy of it to the election board register.

(b) Within 5 days after a challenge is filed, mail a notice in the manner set forth in NRS 293.530 to the person whose right to vote has been challenged pursuant to this section informing the person of the challenge. ***If the person's right to vote is challenged on the grounds that the person has been convicted of a felony*** ~~***[under the laws of]***~~ ***in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the notice must be accompanied by an affidavit which allows the person whose right to vote has been challenged to affirm under penalty of perjury that he or she is a lawful resident of this State and that he or she has never been convicted of a felony*** ~~***[under the laws of]***~~ ***in this State or another state or , if so, has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act. If the person so affirms or presents a court order or official documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the county clerk may not cancel the registration of the person whose right to vote has been challenged unless the county clerk has specific, documentary evidence that the person is ineligible to vote in this State***. If the person fails to respond or appear to vote within the required time, the county clerk shall cancel the person's registration. A copy of the challenge and information describing how to reregister properly must accompany the notice.

(c) Immediately notify the district attorney. A copy of the challenge must accompany the notice.

6. Upon receipt of a notice pursuant to this section, the district attorney shall investigate the challenge within 14 days and, if appropriate, cause proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. ***If the right to vote of a person has been challenged on the grounds that the person has been convicted of a felony***

~~*[under the laws of]*~~ ***in this State or another state and has not had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, and if the person presents to the district attorney or the court the affidavit signed by the person pursuant to paragraph (b) of subsection 5 or a court order or other documentation indicating that he or she has had his or her civil right to vote in this State restored pursuant to the provisions of NRS 176A.850, 179.285, 213.090, 213.155 or 213.157 or pursuant to the provisions of section 10.3 of this act, the district attorney or the court must find that the person is entitled to the civil right to vote in this State unless the district attorney or the court has specific, documentary evidence that the person is ineligible to vote in this State.*** The court shall give such proceedings priority over other civil matters that are not expressly given priority by law. Upon court order, the county clerk shall cancel the registration of the person whose right to vote has been challenged pursuant to this section.

Sec. 15. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS 293C.115 and 293C.190, a name may not be printed on a ballot to be used at a primary city election unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than 70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF ..... FOR THE OFFICE OF .....

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored *;* ~~[by a court of competent jurisdiction;]~~ that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that

I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ..... day of the month of ..... of the year .....

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where the candidate actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to the residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at the specified address, unless the candidate has designated in writing to the city

clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his or her civil rights restored **,** ~~[by a court of competent jurisdiction,]~~ the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether the candidate has had his or her civil rights restored ***;*** ~~[by a court of competent jurisdiction;]~~ and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his or her civil rights restored **,** ~~[by a court of competent jurisdiction,]~~ the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 16. **1. Any person residing in this State who, before July 1, 2011:**

(a) Was honorably discharged from probation pursuant to NRS 176A.850;

(b) Was granted a pardon with the restoration of the right to vote pursuant to NRS 213.090;

(c) Was honorably discharged from parole pursuant to NRS 213.155; or

(d) Completed his or her sentence and was released from prison pursuant to NRS 213.157,

➥ who is not on probation or parole or serving a sentence of imprisonment on July 1, 2011, and who has not had his or her civil right to vote restored is hereby restored to the civil right to vote.

2. The provisions of this act do not require any notification to a person described in subsection 1 of the restoration of his or her civil right to vote.

Sec. 17. **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.

Assembly Bill No. 301 relates to the state personnel system. Amendment No. 688 makes the following changes:

It restores the civil right to vote to those who were honorably discharged from probation or parole, were granted a pardon, or had completed a sentence before July 1, 2011.

It provides that there is no requirement to notify any of these individuals that their civil right to vote has been restored; and it establishes an effective date of July 1, 2011.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 308.

Bill read second time.

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

Amendment No. 706.

"SUMMARY—Revises provisions governing the regulation of mortgage lending. (BDR 54-183)"

"AN ACT relating to mortgage lending; revising provisions governing certain mortgage lending professionals to be consistent with certain federal law governing the provision of mortgage assistance relief services; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law regulates the activities of certain mortgage lending professionals who provide counseling, assistance and advice to homeowners whose homes are subject to an outstanding notice of the pendency of an action for foreclosure. (NRS 645F.300-645F.450) The Federal Trade Commission similarly regulates the activities of persons who provide mortgage assistance relief services. (16 C.F.R. Part 322) This bill revises Nevada law to provide protections for homeowners consistent with the protections provided pursuant to the regulations adopted by the Federal Trade Commission.

Section 2 of this bill prohibits a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.

Section 3 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to maintain certain records for not less than 24 months. **Section 3** provides that such records are subject to inspection and audit by the Commissioner of Mortgage Lending. **Section 3** also requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to take reasonable steps to ensure that any of his or her employees or independent contractors comply with the laws and regulations governing persons who perform covered services for compensation, foreclosure consultants and loan modification consultants.

Section 4 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to make certain disclosures in connection with any commercial communication relating to the provision of any covered service.

Section 5 of this bill requires a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant to provide certain notices to a homeowner at the time the homeowner is presented with a written agreement incorporating an offer of mortgage assistance obtained from the homeowner's lender or servicer.

Section 6 of this bill prohibits a person who knows or reasonably should know that a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant is not in compliance with the laws and regulations governing covered services from providing substantial assistance or support to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.

~~[Section 8 of this bill extends to the employees of an attorney at law the exemption from regulation as a foreclosure consultant or foreclosure purchaser that is currently provided under certain circumstances to an attorney at law.]~~

Section 9 of this bill prohibits a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from making certain express or implied representations relating to the provision of covered services, including any representation that: (1) a homeowner cannot or should not contact or communicate with his or her lender; or (2) the covered service is affiliated with or endorsed by the Federal Government, the State of Nevada or any department, agency or political subdivision thereof. **Section 9** also prohibits a person who performs any covered service, a foreclosure consultant or a loan modification consultant from obtaining or attempting to obtain from a homeowner a waiver of any provision of this bill or existing law. Any such waiver is void and unenforceable. A violation of any provision of **section 9** constitutes mortgage lending fraud and is punishable as a category C felony.

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

Section 1. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall not claim, demand, charge, collect or receive any compensation before a homeowner has executed a written agreement with the lender or servicer incorporating the offer of mortgage assistance obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant.***

Sec. 3. ***1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall keep each of the following records for a period of not less than 24 months after the date the record is created:***

(a) Each contract or other agreement between the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant and a homeowner.

(b) A copy of each written communication between the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant and a homeowner which occurred before the date on which the homeowner entered into a contract for covered services.

(c) A copy of every document or telephone recording created in connection with the requirements of subsection 2.

(d) The file of each homeowner, which must include, without limitation, the name of the homeowner, his or her telephone number, the amount of money paid by the homeowner and a description of the covered services purchased by the homeowner.

(e) For each covered service, a copy of every materially different sales script, training material, commercial communication or any other marketing material, including, without limitation, any material published on an Internet website.

(f) A copy of each disclosure provided to a homeowner pursuant to section 5 of this act.

2. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall:

(a) Take reasonable steps to ensure that all employees and independent contractors of the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant comply with the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto.

(b) If the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant is engaged in the telemarketing of covered services, perform random, blind recording and testing of the oral representations made by persons engaged in sales or other customer service functions.

(c) Establish a procedure for receiving and responding to all complaints of homeowners.

(d) Record the number and nature of complaints of homeowners regarding transactions involving an employee or independent contractor of the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant.

(e) Investigate promptly and fully each complaint received from a homeowner.

(f) Take corrective action with respect to any employee or independent contractor whom the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant determines is not complying with the provisions of NRS 645F.300 to

645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto.

(g) Maintain any information necessary to demonstrate compliance with the requirements of this subsection.

3. All records kept pursuant to this section are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.

Sec. 4. ***1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall:***

(a) Include with each general commercial communication for any covered service the following disclosures printed in at least 12-point type:

(1) "[Name of company] is not associated with the government, and our service is not approved by the government or your lender."

(2) In any case in which the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant makes an express or implied representation that homeowners will receive covered services:

"Even if you accept this offer and use our service, your lender may not agree to change your loan."

(b) Include with each commercial communication which is specific to a homeowner the following disclosures printed in at least 12-point type:

(1) "You may stop doing business with us at any time. You may accept or reject the offer we obtain from your lender [or servicer]. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert total amount or method of calculating the total amount] for our services."

(2) "[Name of company] is not associated with the government, and our service is not approved by the government or your lender."

(3) In any case in which the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant makes an express or implied representation that the homeowner will receive covered services:

"Even if you accept this offer and use our service, your lender may not agree to change your loan."

(c) Include with any commercial communication relating to a covered service in which the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant represents expressly or by implication that a homeowner should temporarily or permanently discontinue payments, in whole or in part, on any mortgage or lien on a residence in foreclosure a clear and prominent statement, in close proximity to the express or implied representation and printed in at least 12-point type, which provides that:

"If you stop paying your mortgage, you could lose your home and damage your credit rating."

2. The disclosures required by paragraphs (a) and (b) of subsection 1 must be made in a clear and prominent manner and:

(a) In a written communication, the disclosures must appear together and be preceded by the heading "IMPORTANT NOTICE," printed in at least 14-point bold type; and

(b) In an oral communication, the audio component of the required disclosures must be preceded by the statement "Before using this service, consider the following information" and, if the oral communication is made by telephone, must be made at the beginning of the communication.

3. As used in this section, "total amount" means all amounts the homeowner must pay to purchase, receive and use all covered services that are subject to the contract for covered services, including, without limitation, all fees and charges.

Sec. 5. *1. A person who performs any covered service for compensation, a foreclosure consultant and a loan modification consultant shall, at the time the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant provides a homeowner with a written agreement between the homeowner and the homeowner's lender or servicer incorporating the offer of mortgage assistance obtained from the homeowner's lender or servicer:*

(a) Provide the following notice printed in at least 12-point type to the homeowner:

> *"This is an offer of mortgage assistance we obtained from your lender [or servicer]. You may accept or reject the offer. If you reject the offer, you do not have to pay us. If you accept the offer, you will have to pay us [insert total amount or method of calculating the total amount] for our services."*

➥ *The notice must be made in a clear and prominent manner on a separate written page and be preceded by the heading "IMPORTANT NOTICE: BEFORE BUYING THIS SERVICE, CONSIDER THE FOLLOWING INFORMATION" printed in at least 14-point bold type.*

(b) Provide the homeowner with a notice printed in at least 12-point type from the homeowner's lender or servicer which includes a complete description of all material differences between the terms, conditions and limitations which apply to the homeowner's current mortgage loan and the terms, conditions and limitations which will apply to the homeowner's mortgage loan if he or she accepts the offer of the lender or servicer, including, without limitation, the differences between the mortgage loans with regard to the:

(1) Principal balance;

(2) Contract interest rate, including the maximum rate and any adjustable rates;

(3) Amount and number of scheduled periodic payments;

(4) Monthly amounts owed for principal, interest, taxes and mortgage insurance;

(5) Amount of any delinquent payments owing or outstanding; and

(6) Term.

➥ The notice required by this paragraph must be made in a clear and prominent manner on a separate written page and be preceded by the heading "IMPORTANT INFORMATION FROM [name of lender or servicer] ABOUT THIS OFFER" printed in at least 14-point bold type.

2. If the offer obtained from the lender or servicer by the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant is a trial mortgage loan modification, the notice required by paragraph (b) of subsection 1 must include notice to the homeowner:

(a) That the homeowner may not qualify for a permanent mortgage loan modification; and

(b) Setting forth the likely amount of scheduled periodic payments and arrears, payments and fees the homeowner would owe if the homeowner failed to qualify for a permanent mortgage loan modification.

3. As used in this section, "total amount" has the meaning ascribed to it in section 4 of this act.

Sec. 6. ***A person who knows or reasonably should know that another person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant is in violation of any provision of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act and any regulations adopted pursuant thereto shall not provide substantial assistance or support to the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant.***

Sec. 7. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive**,** ***and sections 2 to 6, inclusive, of this act*** do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his or her duties as an attorney at law, ~~*[and his or her employees,]*~~ unless the attorney at law is ~~*[or his or her employees are]*~~ rendering those services in the course and scope of his or her employment by or other affiliation with a ~~[mortgage broker or mortgage agent;]~~ ***person who is licensed or required to be licensed pursuant to NRS 645F.390;***

2. A provider of debt-management services registered pursuant to chapter 676A of NRS while providing debt-management services pursuant to chapter 676A of NRS;

3. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank ~~[;]~~ ***System;***

4. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

5. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

6. A person, other than a person who is licensed pursuant to NRS 645F.390, who is licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the authority of the license;

7. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

8. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 9. NRS 645F.400 is hereby amended to read as follows:

645F.400 1. A person who performs any covered service, a foreclosure consultant and a loan modification consultant shall not:

(a) Claim, demand, charge, collect or receive any compensation except in accordance with ~~[NRS 645F.394.]~~ ***the terms of a contract for covered services.***

(b) Claim, demand, charge, collect or receive any fee, interest or other compensation for any reason which is not fully disclosed to the homeowner.

(c) Take ***or acquire, directly or indirectly,*** any wage assignment, lien on real or personal property, assignment of a homeowner's equity ~~[or other]~~ ***,*** ***any*** interest in a residence ~~[in foreclosure]~~ or other security for the payment of compensation. Any such ***assignment or*** security is void and unenforceable.

(d) Receive any consideration from any third party in connection with a covered service provided to a homeowner unless the consideration is first fully disclosed to the homeowner.

(e) ~~[Acquire, directly or indirectly, any interest in the residence in foreclosure of a homeowner with whom the foreclosure consultant has contracted to perform a covered service.~~

~~(f)]~~ Accept a power of attorney from a homeowner for any purpose, other than to inspect documents as provided by law.

(f) Make any representation, express or implied, that a homeowner cannot or should not contact or communicate with his or her lender or servicer.

(g) Misrepresent any aspect of any covered service.

(h) Make any representation, express or implied, that a covered service is affiliated with, associated with or endorsed or approved by:

(1) The Federal Government, the State of Nevada or any department, agency or political subdivision thereof;

(2) Any governmental plan for homeowner assistance;

(3) Any nonprofit housing counselor agency or program;

(4) The maker, holder or servicer of a homeowner's mortgage loan; or

(5) Any other person, entity or program.

(i) Make any representation, express or implied, about the benefits, performance or efficacy of any covered service unless, at the time the representation is made, the person who performs any covered service, the foreclosure consultant or the loan modification consultant possesses and relies upon competent and reliable evidence which substantiates that the representation is true. As used in this paragraph, "competent and reliable evidence" means tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so using procedures generally accepted in the profession to yield accurate and reliable results.

(j) Obtain or attempt to obtain any waiver of the provisions of NRS 645F.300 to 645F.450, inclusive, and sections 2 to 6, inclusive, of this act or any regulations adopted pursuant thereto. Any such waiver is void and unenforceable.

2. In addition to any other penalty, a violation of any provision of this section shall be deemed to constitute mortgage lending fraud for the purposes of NRS 205.372.

Sec. 10. NRS 645F.430 is hereby amended to read as follows:

645F.430 A foreclosure purchaser who engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act,*** including, without limitation, a foreclosure reconveyance, is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not more than $50,000, or by both fine and imprisonment.

Sec. 11. NRS 645F.440 is hereby amended to read as follows:

645F.440 1. In addition to the penalty provided in NRS 645F.430 and except as otherwise provided in subsection 5, if a foreclosure purchaser engages in any conduct that operates as a fraud or deceit upon a homeowner in connection with a transaction that is subject to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act,*** including, without limitation, a foreclosure reconveyance, the transaction in which the foreclosure purchaser acquired title to the residence in foreclosure may be rescinded by the homeowner within 2 years after the date of the recording of the conveyance.

2. To rescind a transaction pursuant to subsection 1, the homeowner must give written notice to the foreclosure purchaser and a successor in interest to the foreclosure purchaser, if the successor in interest is not a bona fide purchaser, and record that notice with the recorder of the county in which the property is located. The notice of rescission must contain:

(a) The name of the homeowner, the foreclosure purchaser and any successor in interest who holds title to the property; and

(b) A description of the property.

3. Within 20 days after receiving notice pursuant to subsection 2:

(a) The foreclosure purchaser and the successor in interest, if the successor in interest is not a bona fide purchaser, shall reconvey to the homeowner title to the property free and clear of encumbrances which were created subsequent to the rescinded transaction and which are due to the actions of the foreclosure purchaser; and

(b) The homeowner shall return to the foreclosure purchaser any consideration received from the foreclosure purchaser in exchange for the property.

4. If the foreclosure purchaser has not reconveyed to the homeowner title to the property within the period described in subsection 3, the homeowner may bring an action to enforce the rescission in the district court of the county in which the property is located.

5. A transaction may not be rescinded pursuant to this section if the foreclosure purchaser has transferred the property to a bona fide purchaser.

6. As used in this section, "bona fide purchaser" means any person who purchases an interest in a residence in foreclosure from a foreclosure purchaser in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the foreclosure purchaser engaged in conduct which violates subsection 1.

Sec. 12. NRS 645F.450 is hereby amended to read as follows:

645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.300 to 645F.450, inclusive, ***and sections 2 to 6, inclusive, of this act*** are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.

Sec. 13. NRS 645F.394 is hereby repealed.

Sec. 14. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

645F.394 Foreclosure consultants, loan modification consultants and persons performing covered services for compensation: Deposits and trust accounts; commingling; records; inspection and audit.

1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:

(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;

(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and

(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant until the completion of every covered service as agreed upon in the contract for covered services.

2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.

3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he or she maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.

4. As used in this section, "completion of every covered service" means:

(a) Successful results with respect to what the performance of each covered service was intended to yield for the homeowner, as described in the contract for covered services; or

(b) If the performance of one or more covered service has an unsuccessful result with respect to what the performance of that covered service was intended to yield for the homeowner, a showing that every reasonable effort was made, under the particular circumstances, to obtain successful results,

➥ as verified in a written statement provided to the homeowner.

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. 706 to Assembly Bill No. 308 provides that the employees of an attorney at law are subject to the provisions of the *Nevada Revised Statutes* that regulate foreclosure consultants, foreclosure purchasers, loan modification consultants and persons performing covered services for compensation. This result is accomplished by deleting the exemption for these employees.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 393.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 759.

"SUMMARY—Requires criminal background investigations of educational personnel upon renewal of a license. (BDR 34-8)"

"AN ACT relating to educational personnel; **requiring the board of trustees of each school district and the governing body of each charter school to adopt a policy requiring the licensed employees of the school district or charter school to report information concerning arrests for or convictions of certain crimes;** requiring the Commission on Professional Standards in Education to include in the fee for the renewal of licensure of teachers and other educational personnel the amount required for processing the fingerprints of the applicant for renewal by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; requiring the Central Repository to investigate the criminal background of each applicant for renewal of a license submitted to the Superintendent of Public Instruction; revising other provisions governing the renewal of licensure of teachers and other educational personnel; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Department of Education is required to establish a procedure for the notification, tracking and monitoring of the status of criminal cases involving persons who are licensed by the Superintendent of Public Instruction and for the reporting by a school district or charter school to the Department if a licensed employee is arrested for certain crimes. (NRS 391.053-391.059) Section 1 of this bill requires the board of trustees of each school district and the governing body of each charter school to adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime which is required to be reported pursuant to the policy.

Under existing law, an applicant for a license to teach must submit to the Superintendent of Public Instruction with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its report on the criminal history of the applicant and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant. (NRS 391.033) Also under existing law, the Central Repository is required to notify the Superintendent of Public Instruction if the background check indicates that an applicant for licensure has been convicted of certain criminal violations. In addition, the Central Repository is required to notify a county school district, charter school or private school if the investigation of an employee of the school district, charter school or private school whose fingerprints are submitted to the Central Repository indicates that the person has been convicted of certain criminal violations. (NRS 179A.075) An applicant for renewal of a license issued by the Superintendent of Public Instruction is not required to undergo a subsequent background investigation of his or her criminal history upon renewal of the license.

Under existing law, the Commission on Professional Standards in Education is required to fix fees of not less than $65 for the issuance and renewal of a license to teach. (NRS 391.040) Existing administrative regulations of the Commission prescribe a fee for: (1) initial licensure of $110, plus the amount charged for the criminal history of the applicant; and (2) renewal of a license of $80. (NAC 391.045, 391.070) **Section ~~[2]~~ 3** of this bill requires the Commission to set the fees for renewal of a license to include the fees for processing the fingerprints of the applicant for renewal by the Central Repository and the Federal Bureau of Investigation. **Section ~~[3]~~ 4** of this bill requires the Central Repository to investigate the criminal history of applicants for renewal of a license submitted to the Superintendent of Public Instruction. **Section ~~[4]~~ 5** of this bill makes the provisions of the bill effective on July 1, 2011, for the purposes of adopting regulations **and policies** and performing any other preparatory administrative tasks and on January 1, 2012, for all other purposes.

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:**

The board of trustees of each school district and the governing body of each charter school shall adopt a policy which requires a licensed employee of the school district or charter school to report to the school district or charter school if the employee is arrested for or convicted of a crime. The policy must include, without limitation, an identification of:

1. The crimes for which an arrest or conviction must be reported;

2. The person to whom the report must be made; and

3. The time period after the arrest or conviction in which the report must be made.

~~[Section 1.]~~ ***Sec. 2.*** NRS 391.033 is hereby amended to read as follows:

391.033 1. All licenses for teachers and other educational personnel are granted by the Superintendent of Public Instruction pursuant to regulations adopted by the Commission and as otherwise provided by law.

2. An application for the issuance of a license must include the social security number of the applicant.

3. Every applicant for a license must submit with his or her application a complete set of his or her fingerprints and written permission authorizing the Superintendent to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for its ***initial*** report on the criminal history of the applicant ***and for reports thereafter upon renewal of the license pursuant to subsection 6 of NRS 179A.075,*** and for submission to the Federal Bureau of Investigation for its report on the criminal history of the applicant.

4. The Superintendent may issue a provisional license pending receipt of the reports of the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History if the Superintendent determines that the applicant is otherwise qualified.

5. A license must be issued to ***, or renewed for, as applicable,*** an applicant if:

(a) The Superintendent determines that the applicant is qualified;

(b) The reports on the criminal history of the applicant from the Federal Bureau of Investigation and the Central Repository for Nevada Records of Criminal History:

(1) Do not indicate that the applicant has been convicted of a felony or any offense involving moral turpitude; or

(2) Indicate that the applicant has been convicted of a felony or an offense involving moral turpitude but the Superintendent determines that the conviction is unrelated to the position within the county school district or charter school for which the applicant applied ~~[.]~~ ***or for which he or she is currently employed, as applicable;*** and

(c) ~~[The]~~ ***For initial licensure, the*** applicant submits the statement required pursuant to NRS 391.034.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 391.040 is hereby amended to read as follows:

391.040 1. The Commission shall fix fees of not less than $65 for the ~~[issuance and renewal]~~ ***:***

(a) Initial issuance of a license ~~[.]~~ ***, which must include the fees for processing the fingerprints of the applicant by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation; and***

(b) Renewal of a license, which must include the fees for processing the fingerprints of the applicant for renewal by the Central Repository for

Nevada Records of Criminal History and the Federal Bureau of Investigation.

2. The fee for issuing a duplicate license is the same as for issuing the original.

~~[2.]~~ ***3.*** The portion of each fee which represents the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant must be deposited with the State Treasurer for credit to the appropriate account of the Department of Public Safety. The remaining portion of the money received from the fees must be deposited with the State Treasurer for credit to the appropriate account of the Department of Education.

Sec. 3.5. **NRS 391.053 is hereby amended to read as follows:**

391.053 As used in NRS 391.053 to 391.059, inclusive, ***and section 1 of this act,*** "arrest" has the meaning ascribed to it in NRS 171.104.

Sec. 3.7. **NRS 391.059 is hereby amended to read as follows:**

391.059 Immunity from civil or criminal liability extends to every person who, pursuant to NRS 391.053 to 391.059, inclusive, ***and section 1 of this act,*** in good faith:

1. Participates in the making of a report;

2. Causes or conducts an investigation of a person who is licensed pursuant to this chapter and who is arrested; or

3. Submits information to the Department concerning a person who is licensed pursuant to this chapter and who is arrested.

~~[Sec. 3.]~~ ***Sec. 4.*** NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular

crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him or her.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with repositories of the United States and other states to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 427A.735 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof is authorized by law to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for ***the issuance or renewal of*** a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has fingerprints submitted pursuant to NRS 427A.735, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

~~[Sec. 4.]~~ ***Sec. 5.*** This act becomes effective on July 1, 2011, for the purposes of adopting any necessary regulations **and policies** and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on January 1, 2012, for all other purposes.

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. 759 revises the bill to add the requirement that school district boards of trustees and charter school governing bodies adopt a policy for self-reporting by their licensed educators if the employee is arrested for or convicted of a crime. The policy must include the crimes which must be reported, the person to whom the report must be made; and the time period within which the report must be made.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 501.

Bill read second time.

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

Amendment No. 692.

"SUMMARY—Provides for ~~[a study of issues regarding]~~ **an audit of the fiscal costs of** the death penalty. (BDR S-1103)"

"AN ACT relating to the death penalty; providing for ~~[a study of issues regarding]~~ **an audit of the fiscal costs of** the death penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the ~~[Audit Division of the Legislative Counsel Bureau]~~ **Legislative Commission to direct the Legislative Auditor** to conduct ~~[a staff study on]~~ **an audit of** the fiscal costs of the death penalty in Nevada. The ~~[study]~~ **audit** must include, without limitation, an examination and analysis of the costs of prosecuting and adjudicating capital cases compared to noncapital cases. The Legislative Auditor is required to ~~[submit]~~ **present** a **final** written report of ~~[findings to the Director of the Legislative Counsel Bureau]~~ **the audit to the Audit Subcommittee of the Legislative Commission** on or before January 31, 2013.

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

Section 1. (Deleted by amendment.)

Sec. 2. 1. The Legislative Commission shall direct the ~~[Audit Division of the]~~ Legislative ~~[Counsel Bureau]~~ **Auditor** to conduct ~~[a staff study]~~ **an audit** of the fiscal costs associated with the death penalty in this State.

2. The ~~[study]~~ **audit** conducted pursuant to this section must include an examination and analysis concerning the costs of prosecuting and adjudicating capital murder cases as compared to noncapital murder cases, including, without limitation, the costs relating to the death penalty borne by the State of Nevada and by the local governments in this State at each stage of the proceedings in capital murder cases, including pretrial costs, trial costs, appellate and postconviction costs and costs of incarceration such as:

(a) The costs of legal counsel involved in the prosecution and defense of a capital murder case for all pretrial, trial and postconviction proceedings; and

(b) Additional procedural costs involved in capital murder cases as compared to noncapital murder cases, including, without limitation, costs relating to:

(1) Processing of bonds, including investigative costs of prosecutors, police and other staff;

(2) Investigation of a case before a person is charged with a crime, including costs for investigation by the prosecution and the defense;

(3) Pretrial motions;
(4) Extradition;
(5) Psychiatric and medical evaluations;
(6) Expert witnesses;
(7) Juries;
(8) Sentencing proceedings;
(9) Appellate and postconviction proceedings, including motions, writs of certiorari and state and federal petitions for postconviction relief;
(10) Requests for clemency;
(11) Incarceration of persons awaiting trial in capital murder cases and persons sentenced to death; and
(12) Execution of a sentence of death, including costs of facilities and staff.

3. **The audit must be conducted in the manner set forth in NRS 218G.010 to 218G.450, inclusive, and for purposes of the audit the provisions of those sections are applicable to a local government in the same manner as to an agency of the State.**

4. On or before January 31, 2013, the Legislative Auditor shall **[**submit**]** **present** a **final** written report of **[**any findings to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada egislature.**]** **the audit to the Audit Subcommittee of the Legislative Commission created by NRS 218E.240.**

Sec. 3. This act becomes effective upon passage and approval.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Assembly Bill No. 501 relates to a study of the fiscal cost of the death penalty and makes the following changes.

It clarifies that the Legislative Auditor will conduct an audit of the fiscal costs associated with the death penalty in Nevada; and it provides that the audit must be conducted pursuant to the provisions of Chapter 218G of the Nevada Revised Statutes and that the audit will be reported to the Audit Subcommittee of the Legislative Commission.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 545.

Bill read second time.

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

Amendment No. 750.

"SUMMARY—Makes changes to the population basis for the exercise of certain powers by local governments.(BDR 20-548)"

"AN ACT relating to classifications based on population; changing the population basis for the exercise of certain powers by local governments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Unless expressly provided otherwise or required by context, "population" is defined under existing law for the entire Nevada Revised Statutes as "the number of people in a specified area as determined by the last preceding national decennial census conducted by the Bureau of the Census of the United States Department of Commerce" pursuant to the United States Constitution and as reported by the Secretary of Commerce to the Governor of Nevada. (NRS 0.050) The Nevada Supreme Court has upheld classifications in statutes based on the population of entities if the classification is rationally related to the subject matter and purpose of the statute, applies prospectively to all such entities that might come within its designated class and does not create an odious, absurd or bizarre distinction. (*County of Clark v. City of Las Vegas*, 97 Nev. 260, 264 (1981)) This bill constitutes the Legislature's reconsideration of the population classifications in existing law to determine whether those classifications continue to meet the conditions expressed by the Nevada Supreme Court.

Section 42 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 42. NRS 248.100 is hereby amended to read as follows:

248.100 1. The sheriff shall:

(a) Except in a county whose population is ~~[~~400,000~~]~~ ~~*[100,000]*~~ ***700,000*** or more, attend in person, or by deputy, all sessions of the district court in his or her county.

(b) Obey all the lawful orders and directions of the district court in his or her county.

(c) Except as otherwise provided in subsection 2, execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to the sheriff for that purpose.

2. The sheriff may authorize the constable of the appropriate township to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners.

Section 43 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 43. NRS 252.070 is hereby amended to read as follows:

252.070 1. All district attorneys may appoint deputies, who are authorized to transact all official business relating to those duties of the office set forth in NRS 252.080 and 252.090 to the same extent as their principals and perform such other duties as the district attorney may from time to time direct. The appointment of a deputy district attorney must not be construed to confer upon that deputy policymaking authority for the office of the district attorney or the county by which the deputy district attorney is employed.

2. District attorneys are responsible on their official bonds for all official malfeasance or nonfeasance of the deputies. Bonds for the faithful performance of their official duties may be required of deputies by district attorneys.

3. All appointments of deputies under the provisions of this section must be in writing and must, together with the oath of office of the deputies, be

recorded in the office of the recorder of the county within which the district attorney legally holds and exercises his or her office. Revocations of those appointments must also be recorded as provided in this section. From the time of the recording of the appointments or revocations therein, persons shall be deemed to have notice of the appointments or revocations.

4. Deputy district attorneys of counties whose population is less than 100,000 may engage in the private practice of law. In any other county, except as otherwise provided in NRS 7.065 and this subsection, deputy district attorneys shall not engage in the private practice of law. An attorney appointed to prosecute a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. Any district attorney may, subject to the approval of the board of county commissioners, appoint such clerical, investigational and operational staff as the execution of duties and the operation of his or her office may require. The compensation of any person so appointed must be fixed by the board of county commissioners.

6. In a county whose population is ~~[~~400,000~~]~~ ~~*[100,000]*~~ ***700,000*** or more, deputies are governed by the merit personnel system of the county.

Section 46 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 46. NRS 260.040 is hereby amended to read as follows:

260.040 1. The compensation of the public defender must be fixed by the board of county commissioners. The public defender of any two or more counties must be compensated and be permitted private civil practice of the law as determined by the boards of county commissioners of those counties, subject to the provisions of subsection 4 of this section and NRS 7.065.

2. The public defender may appoint as many deputies or assistant attorneys, clerks, investigators, stenographers and other employees as the public defender considers necessary to enable him or her to carry out his or her responsibilities, with the approval of the board of county commissioners. An assistant attorney must be a qualified attorney licensed to practice in this State and may be placed on a part-time or full-time basis. The appointment of a deputy, assistant attorney or other employee pursuant to this subsection must not be construed to confer upon that deputy, assistant attorney or other employee policymaking authority for the office of the public defender or the county or counties by which the deputy, assistant attorney or other employee is employed.

3. The compensation of persons appointed under subsection 2 must be fixed by the board of county commissioners of the county or counties so served.

4. The public defender and his or her deputies and assistant attorneys in a county whose population is less than 100,000 may engage in the private practice of law. Except as otherwise provided in this subsection, in any other county, the public defender and his or her deputies and assistant attorneys shall not engage in the private practice of law except as otherwise provided

in NRS 7.065. An attorney appointed to defend a person for a limited duration with limited jurisdiction may engage in private practice which does not present a conflict with his or her appointment.

5. The board of county commissioners shall provide office space, furniture, equipment and supplies for the use of the public defender suitable for the conduct of the business of his or her office. However, the board of county commissioners may provide for an allowance in place of facilities. Each of those items is a charge against the county in which public defender services are rendered. If the public defender serves more than one county, expenses that are properly allocable to the business of more than one of those counties must be prorated among the counties concerned.

6. In a county whose population is ~~[~~400,000~~]~~ ~~*[100,000]*~~ ***700,000*** or more, deputies are governed by the merit personnel system of the county.

Section 47 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 47. NRS 3.310 is hereby amended to read as follows:

3.310 1. Except as otherwise provided in this subsection, the judge of each district court may appoint a bailiff for the court in counties polling 4,500 or more votes. In counties polling less than 4,500 votes, the judge may appoint a bailiff with the concurrence of the sheriff. Subject to the provisions of subsections 2, 4 and 10, in a county whose population is ~~[~~400,000~~]~~ ~~*[100,000]*~~ ***700,000*** or more, the judge of each district court may appoint a deputy marshal for the court instead of a bailiff. In each case, the bailiff or deputy marshal serves at the pleasure of the judge he or she serves.

2. In all judicial districts where there is more than one judge, there may be a number of bailiffs or deputy marshals at least equal to the number of judges, and in any judicial district where a circuit judge has presided for more than 50 percent of the regular judicial days of the prior calendar year, there may be one additional bailiff or deputy marshal, each bailiff or deputy marshal to be appointed by the joint action of the judges. If the judges cannot agree upon the appointment of any bailiff or deputy marshal within 30 days after a vacancy occurs in the office of bailiff or deputy marshal, then the appointment must be made by a majority of the board of county commissioners.

3. Each bailiff or deputy marshal shall:

(a) Preserve order in the court.

(b) Attend upon the jury.

(c) Open and close court.

(d) Perform such other duties as may be required of him or her by the judge of the court.

4. The bailiff or deputy marshal must be a qualified elector of the county and shall give a bond, to be approved by the district judge, in the sum of $2,000, conditioned for the faithful performance of his or her duty.

5. The compensation of each bailiff or deputy marshal for his or her services must be fixed by the board of county commissioners of the county

and his or her salary paid by the county wherein he or she is appointed, the same as the salaries of other county officers are paid.

6. The board of county commissioners of the respective counties shall allow the salary stated in subsection 5 as other salaries are allowed to county officers, and the county auditor shall draw his or her warrant for it, and the county treasurer shall pay it.

7. The provisions of this section do not:

(a) Authorize the bailiff or deputy marshal to serve any civil or criminal process, except such orders of the court which are specially directed by the court or the presiding judge thereof to him or her for service.

(b) Except in a county whose population is ~~[~~400,000~~]~~ ~~*[100,000]*~~ ***700,000*** or more, relieve the sheriff of any duty required of him or her by law to maintain order in the courtroom.

8. If a deputy marshal is appointed for a court pursuant to subsection 1, each session of the court must be attended by the deputy marshal.

9. For good cause shown, a deputy marshal appointed for a court pursuant to subsection 1 may be assigned temporarily to assist other judicial departments or assist with court administration as needed.

10. A person appointed to be a deputy marshal for a court pursuant to subsection 1 must be certified by the Peace Officers' Standards and Training Commission as a category I peace officer not later than 18 months after appointment.

Section 75.5 of Assembly Bill No. 545 is hereby amended as follows:

Sec. 75.5. **Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Before changing a classification in a statute based upon population as defined in NRS 0.050, the Legislature shall review the classification, consider the suggestions of all interested persons in the State relating to whether the classification should remain unchanged or be amended, and find that the classification should be amended to a different level. The determination that a classification should be amended must not solely be based upon changes in the population of local governments in this State.

2. In determining whether a classification should be amended, the Legislature shall consider:

(a) The appropriateness of the statute to local governments or other entities of a particular population classification;

(b) Any changes in conditions that are applicable to the affected entities;

(c) Changes in state or federal law other than the law being amended; and

(d) The testimony of representatives of local governments and other persons indicating a need for and desire to apply the statute to the local government or to exclude the local government from the applicability of the statute.

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. 750 to Assembly Bill No. 545 reverts the bill back to its introduced version. This would involve removing the Assembly amendments to Sections 42, 43, 46, and 47; and amends the bill by adding new language to Chapter 218D of the *Nevada Revised Statutes* (NRS) to specify that before changing a classification in a statute based upon population, the Legislature shall review the classification, consider the suggestions of interested persons, and find that the classification should be amended to a different level.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 359, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 477.

Bill read third time.

Roll call on Senate Bill No. 477:

YEAS—21.

NAYS—None.

Senate Bill No. 477 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 59.

Bill read third time.

Roll call on Assembly Bill No. 59:

YEAS—21.

NAYS—None.

Assembly Bill No. 59 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 77.

Bill read third time.

Roll call on Assembly Bill No. 77:

YEAS—21.

NAYS—None.

Assembly Bill No. 77 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 282.

Bill read third time.

Roll call on Assembly Bill No. 282:
YEAS—21.
NAYS—None.

Assembly Bill No. 282 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 304.

Bill read third time.

Roll call on Assembly Bill No. 304:
YEAS—13.
NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Rhoads, Roberson, Settelmeyer—8.

Assembly Bill No. 304 having failed to receive a two-thirds majority, Mr. President declared it lost.

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

Senate in recess at 2:41 p.m.

SENATE IN SESSION

At 2:45 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 309.

Bill read third time.

Remarks by Senator Schneider.

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

Assembly Bill No. 309 creates within the Division of Insurance of the Department of Business and Industry the Office of the Consumer Advocate. The Consumer Advocate, appointed by the Governor, serves as the executive head of the Office, and must intervene in and represent the public interest in all hearings relating to rates or proposed rate increases or decreases for individual health benefit plans and group health plans for small employers.

The measure requires an insurer that offers any health benefit plan to provide in an electronic format to the Consumer Advocate and the Division any proposed rate changes or any other information used to calculate a rate or proposed rate increase or decrease. An insurer must publish on its Internet website the base premiums, certificates of coverage, and actual and projected loss ratios of such health benefit plans offered by the insurer. The Division is required to maintain a link on its Internet website to the insurer's Internet website.

The Commissioner of Insurance is authorized to hold a public hearing before approving or denying a rate or proposed rate increase or decrease to certain health benefit plans and group health plans for certain small employers. Additionally, an insurer, the Consumer Advocate, or a consumer of health insurance may request a public hearing if the proposed rate increase or decrease is more than 10 percent of the current rate, or the health benefit plan represents more than 5 percent of its market segment in this State.

Roll call on Assembly Bill No. 309:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Assembly Bill No. 309 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 360.

Bill read third time.

Senator Manendo moved that Assembly Bill No. 360 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 410.

Bill read third time.

Senator Wiener moved that Assembly Bill No. 410 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Assembly Bill No. 459.

Bill read third time.

Roll call on Assembly Bill No. 459:

YEAS—19.

NAYS—Breeden, Hardy—2.

Assembly Bill No. 459 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 478.

Bill read third time.

Roll call on Assembly Bill No. 478:

YEAS—16.

NAYS—Cegavske, Gustavson, Halseth, Roberson, Settelmeyer—5.

Assembly Bill No. 478 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 245.

The following Assembly amendment was read:

Amendment No. 637.

"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 certain persons who 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 other public and private organizations to assist in the search for and safe return of missing endangered older persons. **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) 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 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 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. (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. ***"Missing endangered older person" means a person who is 60 years of age or older 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 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 within the limits of available money.***

2. Each law enforcement agency, 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) 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 the Department of Transportation, the Nevada Sheriffs' and Chiefs' Association, 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 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 are unknown;

(b) Confirmed either that the missing endangered older person:

(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 dissemination of the information.

2. Before activation of the System on behalf of a missing endangered older person, the law enforcement agency shall determine whether the 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 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 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 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]*~~ ***based upon the 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 that the Senate concur in the Assembly amendment to Senate Bill No. 245.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 264.

The following Assembly amendment was read:

Amendment No. 636.

"SUMMARY—Revises provisions concerning the regulation of certain medical facilities. (BDR 40-15)"

"AN ACT relating to public health; revising requirements for various reports concerning the care provided by certain medical and related facilities; revising provisions relating to administrative fines collected by the Health Division of the Department of Health and Human Services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain medical facilities to submit to the Health Division of the Department of Health and Human Services reports of sentinel events. (NRS 439.835) The term "sentinel event" is defined for the purposes of these reports to mean an unexpected occurrence at the facility which involves facility-acquired infection, 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 a serious adverse outcome. (NRS 439.830) The Health Division is required to prepare annual reports concerning those reports which were submitted by medical facilities located in a county whose population is 100,000 or more (currently Clark and Washoe Counties). (NRS 439.840) **Section 5** of this bill requires the Health Division to prepare such annual reports for medical facilities in every county and to make those reports available on the Department's website. **Section 5** also requires the Health Division to report that information publicly in a format which allows for comparisons of medical facilities.

Existing law requires medical facilities which provide care to 25 or more patients per day to submit information 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 requires the Health Division to analyze that information. (NRS 439.847) **Section 9** of this bill requires the Health Division to report that information publicly in a format which allows for comparisons of medical facilities.

Sections 15.3-17 of this bill require hospitals to submit, as part of the program to increase public awareness of health care information concerning hospitals, data relating to the readmission of a patient if the readmission was potentially preventable and clinically related to the initial admission of the patient. **Section 20** of this bill requires the Department of Health and Human Services to post that information on an Internet website. **Section 16** also authorizes the Department to report certain information concerning the quality of care provided by hospitals if it can be determined from reports

already submitted to the Department. Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)

Sections 21, 22, 24 and 25 of this bill authorize the Health Division to use money which is collected as administrative penalties to administer and carry out the provisions of chapter 449 of NRS and to protect the health and property of the patients and residents of facilities.

Section 35 of this bill repeals NRS 439.825 and 439.850.

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. NRS 439.840 is hereby amended to read as follows:

439.840 1. The Health Division shall:

(a) Collect and maintain reports received pursuant to NRS 439.835 and 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841;

(b) Ensure that such reports, and any additional documents created from such reports, are protected adequately from fire, theft, loss, destruction and other hazards and from unauthorized access;

(c) Annually prepare a report of sentinel events reported pursuant to NRS 439.835 by a medical facility ***,*** ~~[~~~~located in a county whose population is 100,000 or more,~~~~]~~ including, without limitation, the type of event, the number of events ***, the rate of occurrence of events,*** and the medical facility which reported the event ~~[.]~~ ***, and provide the report for inclusion on the Internet website maintained pursuant to NRS 439A.270;*** and

(d) Annually prepare a summary of the reports received pursuant to NRS 439.835 and provide a summary for inclusion on the Internet website maintained pursuant to NRS 439A.270. The Health Division shall maintain the confidentiality of the ***patient, the provider of health care or other member of the staff of the medical facility identified in the*** reports submitted pursuant to NRS 439.835 when preparing the annual summary pursuant to this paragraph.

2. Except as otherwise provided in this section and NRS 239.0115, reports received pursuant to NRS 439.835 and subsection 1 of NRS 439.843 and any additional information requested by the Health Division pursuant to NRS 439.841 are confidential, not subject to subpoena or discovery and not subject to inspection by the general public.

3. The report prepared pursuant to paragraph (c) of subsection 1 must provide to the public information concerning each medical facility which provided medical services and care in the immediately preceding calendar year and must:

(a) Be presented in a manner that allows a person to view and compare the information for the medical facilities;

(b) Be readily accessible and understandable by a member of the general public;

(c) Use standard statistical methodology, including without limitation, risk-adjusted methodology when applicable, and include the description of the methodology and data limitations contained in the report;

(d) Not identify a patient, provider of health care or other member of the staff of the medical facility; and

(e) Not be reported for a medical facility if reporting the data would risk identifying a patient . ~~*[; and*~~

~~*(f) Not include data concerning sentinel events that occurred before October 1, 2010, unless the medical facility allows the Health Division access to data from before that date.]*~~

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 439.843 is hereby amended to read as follows:

439.843 1. On or before March 1 of each year, each medical facility shall provide to the Health Division, in the form prescribed by the State Board of Health, a summary of the reports submitted by the medical facility pursuant to NRS 439.835 during the immediately preceding calendar year. The summary must include, without limitation:

(a) The total number and types of sentinel events reported by the medical facility, if any;

(b) A copy of the patient safety plan established pursuant to NRS 439.865;

(c) A summary of the membership and activities of the patient safety committee established pursuant to NRS 439.875; and

(d) Any other information required by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835.

2. On or before June 1 of each year, the Health Division shall submit to the State Board of Health an annual summary of the reports and information received by the Health Division pursuant to this section. The annual summary must include, without limitation, a compilation of the information submitted pursuant to subsection 1 and any other pertinent information deemed necessary by the State Board of Health concerning the reports submitted by the medical facility pursuant to NRS 439.835. The Health Division shall maintain the confidentiality of the ***patient, the provider of health care or other member of the staff of the medical facility identified in the*** reports submitted pursuant to NRS 439.835 and any other ***identifying*** information ***of a person*** requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

Sec. 8. NRS 439.845 is hereby amended to read as follows:

439.845 1. The Health Division shall analyze and report trends regarding sentinel events.

2. When the Health Division receives notice from a medical facility that the medical facility has taken corrective action to remedy the causes or contributing factors, or both, of a sentinel event, the Health Division shall:

(a) Make a record of the information;

(b) Ensure that the information is ~~[aggregated]~~ ***released in a manner*** so as not to reveal the identity of a specific ~~[person or medical facility;]~~ ***patient, provider of health care or member of the staff of the facility;*** and

(c) At least quarterly, report its findings regarding the analysis of ~~[aggregated]~~ trends of sentinel events ~~[to the Repository for Health Care Quality Assurance.]~~ ***on the Internet website maintained pursuant to NRS 439A.270.***

Sec. 9. NRS 439.847 is hereby amended to read as follows:

439.847 1. Each medical facility which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year shall, within 120 days after becoming eligible, participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems. As part of that participation, the medical facility shall provide, at a minimum, the information required by the Health Division pursuant to this subsection. The Health Division shall by regulation prescribe the information which must be provided by a medical facility, including, without limitation, information relating to infections and procedures.

2. Each medical facility which provided medical services and care to an average of less than 25 patients during each business day in the immediately preceding calendar year may participate in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services that integrates patient and health care personnel safety surveillance systems.

3. A medical facility that participates in the secure, Internet-based surveillance system established by the Division of Healthcare Quality Promotion shall ~~[authorize]~~ ***:***

(a) Authorize the Health Division to access all information submitted to the system ~~[, and the Health Division shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.]~~ ***; and***

(b) Provide consent for the Health Division to include information submitted to the system in the reports posted pursuant to paragraph (b) of subsection 4, including without limitation, permission to identify the medical facility that is the subject of each report.

4. The Health Division shall ~~[analyze]~~ ***:***

(a) Analyze the information submitted to the system by medical facilities pursuant to this section and recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive.

(b) Annually prepare a report of the information submitted to the system by each medical facility pursuant to this section and provide the reports for inclusion on the Internet website maintained pursuant to NRS 439A.270. The information must be reported in a manner that allows a person to compare the information for the medical facilities ~~[.]~~ ***and expressed as a total number and a rate of occurrence.***

(c) Enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.

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. 15.3. Chapter 439A of NRS is hereby amended by adding thereto a new section to read as follows:

"Potentially preventable readmission" means an unplanned readmission of a patient which:

1. Occurs not more than 30 days after the patient is discharged;

2. Is clinically related to the initial admission; and

3. Was preventable.

Sec. 15.7. NRS 439A.200 is hereby amended to read as follows:

439A.200 As used in NRS 439A.200 to 439A.290, inclusive, ***and section 15.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 439A.205 and 439A.210 ***and section 15.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 16. 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) *The quality of care provided by each hospital in this State as determined by applying measures of quality]*~~ ***endorsed by the entities described in subparagraph (1) of paragraph (b) of subsection 1 of***

NRS 439A.230, expressed as a number of events and rate of occurrence, if such measures can be applied to the information reported in the forms submitted pursuant to NRS 449.485;

~~*[(d)]*~~ ***(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) ~~*[(e)]*~~ 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]~~ ***by*** diagnosis-related groups for inpatients and ***for the*** 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~[and]~~

(e) ~~*[(f)]*~~ ***The total number of patients discharged from the hospital and the total number of potentially preventable readmissions, which must be expressed as a total number and a rate of occurrence of potentially preventable readmissions, and the average length of stay and the average billed charges for those potentially preventable readmissions; and***

~~*[(g)]*~~ ***(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. 17. NRS 439A.230 is hereby amended to read as follows:

439A.230 1. The Department shall, by regulation:

(a) Prescribe the information that each hospital in this State must submit to the Department for the program established pursuant to NRS 439A.220.

(b) Prescribe the measures of quality for hospitals that are required pursuant to paragraph (b) of subsection 2 of NRS 439A.220. In adopting the regulations, the Department shall:

(1) Use the measures of quality endorsed by the Agency for Healthcare Research and Quality, the National Quality Forum, Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services, a quality improvement organization of the Centers for Medicare and Medicaid Services and the Joint Commission ***;*** ~~[on Accreditation of Healthcare Organizations;]~~

(2) Prescribe a reasonable number of measures of quality which must not be unduly burdensome on the hospitals; and

(3) Take into consideration the financial burden placed on the hospitals to comply with the regulations.

➥ The measures prescribed pursuant to this paragraph must report health outcomes of hospitals, which do not necessarily correlate with the inpatient

diagnosis-related groups or the outpatient treatments that are posted on the Internet website pursuant to NRS 439A.270.

(c) ***Prescribe the manner in which a hospital must determine whether the readmission of a patient must be reported pursuant to NRS 439A.220 as a potentially preventable readmission and the form for submission of such information.***

(d) Require each hospital to:

(1) Provide the information prescribed in paragraphs (a) ***,*** ~~[and]~~ (b) ***and (c)*** in the format required by the Department; and

(2) Report the information separately for inpatients and outpatients.

2. The information required pursuant to this section and NRS 439A.220 must be submitted to the Department not later than 45 days after the last day of each calendar month.

3. If a hospital fails to submit the information required pursuant to this section or NRS 439A.220 or submits information that is incomplete or inaccurate, the Department shall send a notice of such failure to the hospital and to the Health Division of the Department.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. 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 ***the*** 50 ***most frequent*** medical treatments for outpatients that the Department determines are most useful for consumers; ***and***

(2) Total number of potentially preventable readmissions reported pursuant to NRS 439A.220, the rate of occurrence of potentially preventable readmissions, and the average length of stay and average billed charges of those potentially preventable readmissions, reported by the diagnosis-related group for inpatients for which the patient originally received treatment at ~~*[the]*~~ ***a hospital;***

(b) Include, for each surgical center for ambulatory patients in this State, 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;

(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 (c) of subsection 1 of NRS 439.840;***

(h) Include the annual summary of reports of sentinel events prepared pursuant to paragraph (d) of subsection 1 of NRS 439.840; ~~[and~~

~~(h)]~~ ***(i) Include the reports of information prepared for each medical facility pursuant to paragraph (b) of subsection 4 of NRS 439.847; and***

(j) 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.

Sec. 21. NRS 449.0305 is hereby amended to read as follows:

449.0305 1. Except as otherwise provided in subsection 5, a person must obtain a license from the Board to operate a business that provides referrals to residential facilities for groups.

2. The Board shall adopt:

(a) Standards for the licensing of businesses that provide referrals to residential facilities for groups;

(b) Standards relating to the fees charged by such businesses;

(c) Regulations governing the licensing of such businesses; and

(d) Regulations establishing requirements for training the employees of such businesses.

3. A licensed nurse, social worker, physician or hospital, or a provider of geriatric care who is licensed as a nurse or social worker, may provide referrals to residential facilities for groups through a business that is licensed pursuant to this section. The Board may, by regulation, authorize a public guardian or any other person it determines appropriate to provide referrals to residential facilities for groups through a business that is licensed pursuant to this section.

4. A business that is licensed pursuant to this section or an employee of such a business shall not:

(a) Refer a person to a residential facility for groups that is not licensed.

(b) Refer a person to a residential facility for groups that is owned by the same person who owns the business.

➥ A person who violates the provisions of this subsection is liable for a civil penalty to be recovered by the Attorney General in the name of the State Board of Health for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 nor more than $20,000. Unless otherwise required by federal law, the State Board of Health shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~[for the enforcement of this section and the protection of]~~ ***to administer and carry out the provisions of this chapter and to protect*** the health, safety, well-being and property of ***the patients and*** residents of ~~[residential]~~ facilities ~~[for groups.]~~ ***in accordance with applicable state and federal standards.***

5. This section does not apply to a medical facility that is licensed pursuant to NRS 449.001 to 449.240, inclusive, on October 1, 1999.

Sec. 22. 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, 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, 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 ***administer and carry out the provisions of this chapter and to*** protect the health ~~[or]~~ ***, safety, well-being and*** property of the ***patients and*** residents of ~~[the facility]~~ ***facilities*** in accordance with applicable ***state and*** federal standards.

Sec. 23. (Deleted by amendment.)

Sec. 24. NRS 449.210 is hereby amended to read as follows:

449.210 1. Except as otherwise provided in subsection 2 and NRS 449.24897, a person who operates a medical facility or facility for the dependent without a license issued by the Health Division is guilty of a misdemeanor.

2. A person who operates a residential facility for groups without a license issued by the Health Division:

(a) Is liable for a civil penalty to be recovered by the Attorney General in the name of the Health Division for the first offense of not more than $10,000 and for a second or subsequent offense of not less than $10,000 or more than $20,000;

(b) Shall move all of the persons who are receiving services in the residential facility for groups to a residential facility for groups that is licensed at his or her own expense; and

(c) May not apply for a license to operate a residential facility for groups for a period of 6 months after the person is punished pursuant to this section.

3. Unless otherwise required by federal law, the Health Division shall deposit all civil penalties collected pursuant to this section into a separate account in the State General Fund to be used ~~[for the protection of]~~ ***to administer and carry out the provisions of this chapter and to protect*** the health, safety ***,*** ~~[and]~~ well-being ***and property*** of ***the*** patients ~~[, including]~~ ***and*** residents of ~~[residential]~~ facilities ~~[for groups.]~~ ***in accordance with applicable state and federal standards.***

Sec. 25. NRS 449.2496 is hereby amended to read as follows:

449.2496 1. A person who operates or maintains a home for individual residential care without a license issued by the Health Division pursuant to NRS 449.249 is liable for a civil penalty, to be recovered by the Attorney General in the name of the Health Division, for the first offense of $10,000 and for a second or subsequent offense of not less than $10,000 nor more than $20,000.

2. Unless otherwise required by federal law, the Health Division shall deposit civil penalties collected pursuant to this section into a separate account in the State General Fund ~~[in the State Treasury]~~ to be used ~~[for the protection of]~~ ***to administer and carry out the provisions of this chapter and to protect*** the health, safety, well-being and property of ***the*** patients ~~[, including]~~ ***and*** residents of facilities ~~[found deficient by the Health Division.]~~ ***in accordance with applicable state and federal standards.***

3. A person against whom a civil penalty is assessed by the court pursuant to subsection 1:

(a) Shall move, at that person's own expense, all persons receiving services in the home for individual residential care to a licensed home for individual residential care.

(b) May not apply for a license to operate a home for individual residential care until 6 months have elapsed since the penalty was assessed.

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. NRS 439.825 and 439.850 are hereby repealed.

Sec. 36. (Deleted by amendment.)

Sec. 37. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.825 "Repository" defined. "Repository" means the Repository for Health Care Quality Assurance created by NRS 439.850.

439.850 Repository for Health Care Quality Assurance: Creation; function.

1. The Repository for Health Care Quality Assurance is hereby created within the Health Division.

2. The Repository shall, to the extent of legislative appropriation and authorization, function as a clearinghouse of information relating to aggregated trends of sentinel events.

Senator Copening moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 264.

Motion carried.

Bill ordered transmitted to the Assembly.

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

Senate in recess at 2:57 p.m.

SENATE IN SESSION

At 3:15 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which was re-referred Senate Bill No. 271, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved that Senate Bill No. 271 be placed on the Second Reading File.

Motion carried.

Senator Horsford moved that Senate Bill No. 359 be placed on the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 271.

Bill read second time.

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

Amendment No. 802.

"SUMMARY—Provides for withdrawal of the State of Nevada from the Tahoe Regional Planning Compact **[.]** **under certain circumstances.** (BDR 22-988)"

"AN ACT relating to land use planning; providing for the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact **[;]** **under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the Tahoe Regional Planning Compact, an interstate agreement between the States of California and Nevada pursuant to which the bistate Tahoe Regional Planning Agency regulates environmental and land-use matters within the Lake Tahoe Basin. (NRS 277.190-277.220) Existing law also provides that if either State withdraws from the Compact, the Nevada Tahoe Regional Planning Agency shall assume the duties and powers of regulating environmental and land-use matters on this State's side of the Lake Tahoe Basin. (NRS 278.826)

This bill provides for the withdrawal of Nevada from the Tahoe Regional Planning Compact ~~[, thus causing]~~ **unless the governing body of the Tahoe Regional Planning Agency adopts an updated Regional Plan and certain proposed amendments to the Compact are approved pursuant to Public Law 96-551. The proposed amendments to the Compact are: (1) the removal of the supermajority requirement for the governing body of the Agency to establish a quorum; (2) the removal of the supermajority requirement for voting by the governing body; (3) a requirement that the governing body of the Agency consider the changing economic conditions of the Lake Tahoe Basin and amend the Regional Plan, accordingly; and (4) the addition of a provision to the Compact which sets forth that any person who legally challenges the Regional Plan has the burden of proving the Regional Plan does not comply with the provisions of the Compact. If the Agency does not adopt an updated Regional Plan and the proposed amendments are not approved by October 1, 2014, Nevada's withdrawal from the Compact will become effective on that date unless the Governor issues a proclamation extending the deadline for withdrawal until October 1, 2017.**

This bill also requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to Nevada withdrawing from the Compact.

This bill provides that if Nevada withdraws from the Compact, the Nevada Tahoe Regional Planning Agency **[,]** **will assume the duties and powers currently held by the bistate Agency** for the portion of the Lake Tahoe Basin within this State **. [, to assume the duties and powers currently**

~~held by the bistate Tahoe Regional Planning Agency.]~~ This bill also establishes temporary measures to ensure that the Nevada Tahoe Regional Planning Agency is able to assume those duties and powers in an orderly manner.

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

Section 1. The State of Nevada hereby withdraws from the Tahoe Regional Planning Compact pursuant to the provisions of subdivision (c) of Article X of the Tahoe Regional Planning Compact.

Sec. 1.5. **NRS 277.200 is hereby amended to read as follows:**

277.200 The Tahoe Regional Planning Compact is as follows:

Tahoe Regional Planning Compact

ARTICLE I. Findings and Declarations of Policy

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the states of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal Government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its man-made environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. Definitions

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. Organization

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a

member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the governor of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. Except for the secretary of state and the director of the state department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that state the governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than $1,000;

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than $1,000;

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

➥ No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of state and director of the state department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) ~~[Four]~~ ***Eight*** of the members of the governing body ~~[from each state]~~ constitute a quorum for the transaction of the business of the agency ~~[. The voting procedures shall be as follows:]~~ ***, and the affirmative vote of eight members of the governing body is sufficient for any of the following purposes:***

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations. ~~[, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.]~~

(2) For approving a project. ~~[, the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken.]~~ A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions. ~~[, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.]~~

➥ Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the state department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the state department of conservation and natural

resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. Personnel

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. Planning

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

➥ the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the states of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body

shall continuously review and maintain the regional plan ~~.~~ ***and, in so doing, shall ensure that the regional plan reflects changing economic conditions and the economic effect of regulation on commerce.*** The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

➥ Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the states of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

➥ Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. Agency's Powers

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; floodplain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is

general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that plan.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The legislatures of the states of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county

during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined).....252
2. Placer County 278
3. Carson City.....-0-
4. Douglas County 339
5. Washoe County.....739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third the amount of that square footage may be issued by each such city or county.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined).....64,324
2. Placer County 23,000
3. Carson City.....-0-
4. Douglas County 57,354
5. Washoe County.....50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the applicable state law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District # 1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is

3.0 million gallons per day. Such modification or alteration is not a "project"; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alteration, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the states of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

➥ The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the

private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by Article VI (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

➥ The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those

areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by Article VI (g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f) the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

➥ Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary

support or whether the agency has failed to proceed in a manner required by law. ***In addition, there is a rebuttable presumption that a regional plan adopted, amended, formulated or maintained pursuant to this compact is in conformance with the requirements applicable to this compact, and a party challenging the regional plan has the burden of showing that it is not in conformance with the requirements applicable to this compact.***

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the legislative auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and

diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. Environmental Impact Statements

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments

and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

➥ A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. Finances

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next

succeeding fiscal year commencing July 1 of the following year. The agency shall apportion $75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay $18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay $12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the states of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. Transportation District

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer who must be appointed by his respective board of supervisors;

(2) One member of the city council of the City of South Lake Tahoe who must be appointed by the city council;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County who must be appointed by his respective board of county commissioners;

(4) One member of the board of supervisors of Carson City who must be appointed by the board of supervisors;

(5) One member of the South Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(6) One member of the North Shore Transportation Management Association or its successor organization who must be appointed by the association or its successor organization;

(7) One member of each local transportation district in the region that is authorized by the State of Nevada or the State of California who must be appointed by his respective transportation district;

(8) One member appointed by a majority of the other voting directors who represents a public or private transportation system operating in the region;

(9) The director of the California Department of Transportation; and

(10) The director of the department of transportation of the State of Nevada.

➥ Any entity that appoints a member to the board of directors, the director of the California Department of Transportation or the director of the department of transportation of the State of Nevada may designate an alternate.

(c) Before a local transportation district appoints a member to the board of directors pursuant to paragraph (7) of subdivision (b), the local transportation district must enter into a written agreement with the Tahoe transportation district that sets forth the responsibilities of the districts for the establishment of policies and the management of financial matters, including, but not limited to, the distribution of revenue among the districts.

(d) The directors of the California Department of Transportation and the department of transportation of the State of Nevada, or their designated alternates, serve as nonvoting directors, but shall provide technical and professional advice to the district as necessary and appropriate.

(e) The vote of a majority of the directors must agree to take action. If a majority of votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken.

(f) The Tahoe transportation district may by resolution establish procedures for the adoption of its budgets, the appropriation of its money and the carrying on of its other financial activities. These procedures must conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the region.

(g) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Own and operate support facilities for public and private systems of transportation, including, but not limited to, parking lots, terminals, facilities for maintenance, devices for the collection of revenue and other related equipment.

(3) Acquire or agree to operate upon mutually agreeable terms any publicly or privately owned transportation system or facility within the region.

(4) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(5) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(6) Contract with local governments in the region to operate transportation facilities or provide any of the services necessary to operate a system of transportation for the region.

(7) Fix the rates and charges for transportation services provided pursuant to this subdivision.

(8) Issue revenue bonds and other evidence of indebtedness and make other financial arrangements appropriate for developing and operating a public transportation system.

(9) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way, except for a sales and use tax. If a sales and use tax is approved by the voters as provided in this paragraph, it may be administered by the states of California and Nevada respectively in accordance with the laws that apply within their respective jurisdictions and must not exceed a rate of 1 percent of the gross receipts from the sale of tangible personal property sold in the district. The district is prohibited from imposing any other tax measured by gross or net receipts on business, an ad valorem tax, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of the voters voting on the proposition who reside in the State of California in accordance with the laws that apply within that state and approval of the voters voting on the proposition who reside in the State of Nevada in accordance with the laws that apply within that state. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.

(10) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

(h) The legislatures of the states of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. Miscellaneous

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if

any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

Sec. 2. NRS 277.207 is hereby amended to read as follows:

277.207 All judicial actions and proceedings in which there may arise a question of the validity of any matter under the provisions of ***former*** NRS 277.190 to 277.220, inclusive, ~~[shall]~~ ***must*** be advanced as a matter of immediate public interest and concern, and be heard at the earliest practicable moment.

Sec. 3. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

The Account for the Nevada Tahoe Regional Planning Agency is hereby established in the State General Fund and consists of any money provided by direct legislative appropriation. Money in the Account must be expended for the support of, or paid over directly to, the Agency in whatever amount and manner is directed by each appropriation or provided by law.

Sec. 4. NRS 278.024 is hereby amended to read as follows:

278.024 1. In the region of this State for which there has been created by NRS 278.780 to 278.828, inclusive, ***and section 3 of this act*** a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, upon any other authority are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by NRS 278.780 to 278.828, inclusive, ***and section 3 of this act*** of any regional plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, shall cease to be effective as to the territory embraced in such regional plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 5. NRS 278.782 is hereby amended to read as follows:

278.782 As used in NRS 278.780 to 278.828, inclusive, ***and section 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 278.784 to 278.791, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 278.792 is hereby amended to read as follows:

278.792 1. The Nevada Tahoe Regional Planning Agency is hereby created as a separate legal entity.

2. The governing body of the Agency consists of ~~[:]~~ ***seven members as follows:***

(a) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or Board of Supervisors, respectively, and must reside in the territorial jurisdiction of the governmental body making the appointment.

(b) ~~[One member appointed by the]~~ ***The*** Governor of Nevada ~~[, the Secretary of State of Nevada]~~ or a designee of the ~~[Secretary of State, and the Director]~~ ***Governor.***

(c) The ~~*[Lieutenant Governor]*~~ ***Secretary of State or a designee of the*** ~~*[Lieutenant Governor.]*~~ ***Secretary of State.***

(d) The State Forester Firewarden or a designee of the State Forester Firewarden.

(e) The Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources ~~[of Nevada]~~ or a designee of the ~~[Director.]~~ ***Administrator.***

➥ A member who is ~~[appointed or]~~ designated pursuant to ~~[this paragraph must not be a resident of the region and]~~ ***paragraphs (b) to (e), inclusive,*** shall represent the public at large within the State of Nevada.

~~[(c) One member appointed for a 1-year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the Governor shall make the appointment. The member appointed pursuant to this paragraph may but is not required to be a resident of the region.]~~

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the Governor shall make the appointment.

4. The position of any member of the governing body shall be deemed vacant if the member is absent from three consecutive meetings of the governing body in any calendar year.

5. Each member and employee of the Agency shall disclose his or her economic interests in the region within 10 days after taking the seat on the governing body or being employed by the Agency and shall thereafter disclose any further economic interest which he or she acquires, as soon as feasible after acquiring it. As used in this section, "economic interest" means:

(a) Any business entity operating in the region in which the member has a direct or indirect investment worth more than $1,000;

(b) Any real property located in the region in which the member has a direct or indirect interest worth more than $1,000;

(c) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(d) Any business entity operating in the region in which the member is a director, officer, partner, trustee, employee or holds any position of management.

➥ No member or employee of the Agency may make or attempt to influence an Agency decision in which the member or employee knows or has reason to know he or she has a financial interest. Members and employees of the Agency must disqualify themselves from making or participating in the making of any decision of the Agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interest of the member or employee.

Sec. 7. NRS 278.794 is hereby amended to read as follows:

278.794 The terms of office of the members of the governing body ~~[~~, ~~other than the member appointed by the other members,]~~ ***:***

1. For members who are elected state officers, coincide with the member's elected term of office.

2. For members who are appointed or designated, are at the pleasure of the appointing ***or designating*** authority in each case, but each appointment ***and designation*** must be reviewed no less often than every 4 years.

Sec. 8. NRS 218E.550 is hereby amended to read as follows:

218E.550 As used in NRS 218E.550 to 218E.580, inclusive, unless the context otherwise requires, "Committee" means the Legislative Committee for the Review and Oversight of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218E.555.

Sec. 9. NRS 218E.555 is hereby amended to read as follows:

218E.555 1. There is hereby created the Legislative Committee for the Review and Oversight of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System consisting of three members of the Senate and three members of the Assembly, appointed by the Legislative Commission with appropriate regard for their experience with and knowledge of matters relating to the management of natural resources. The members must be appointed to provide representation from the various geographical regions of the State.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

3. The members of the Committee shall elect a Chair from one House of the Legislature and a Vice Chair from the other House. Each Chair and Vice Chair holds office for a term of 2 years commencing on July 1 of each odd-numbered year.

4. Any member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session of the Legislature convenes.

5. Vacancies on the Committee must be filled in the same manner as original appointments.

6. The Committee shall report annually to the Legislative Commission concerning its activities and any recommendations.

Sec. 10. NRS 218E.565 is hereby amended to read as follows:

218E.565 The Committee shall:

1. Provide appropriate review and oversight of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System;

2. Review the budget, programs, activities, responsiveness and accountability of the ***Nevada*** Tahoe Regional Planning Agency and the Marlette Lake Water System in such a manner as deemed necessary and appropriate by the Committee; ***and***

3. Study the role, authority and activities of:

(a) The ***Nevada*** Tahoe Regional Planning Agency regarding the Lake Tahoe Basin; and

(b) The Marlette Lake Water System regarding Marlette Lake **.** ~~[~~; and

~~4. Continue to communicate with members of the Legislature of the State of California to achieve the goals set forth in the Tahoe Regional Planning Compact.]~~

Sec. 11. NRS 321.5952 is hereby amended to read as follows:

321.5952 The Legislature hereby finds and declares that:

1. The Lake Tahoe Basin exhibits unique environmental and ecological conditions that are irreplaceable.

2. Certain of the unique environmental and ecological conditions exhibited within the Lake Tahoe Basin, such as the clarity of the water in Lake Tahoe, are diminishing at an alarming rate.

3. This State has a compelling interest in preserving, protecting, restoring and enhancing the natural environment of the Lake Tahoe Basin.

4. The preservation, protection, restoration and enhancement of the natural environment of the Lake Tahoe Basin is a matter of such significance that it must be carried out on a continual basis.

5. It is in the best interest of this State to grant to the Division continuing authority to carry out programs to preserve, protect, restore and enhance the natural environment of the Lake Tahoe Basin.

6. The powers and duties set forth in NRS 321.5952 to 321.5957, inclusive, are intended to be exercised by the Division in a manner that complements and does not duplicate the activities of the ***Nevada*** Tahoe Regional Planning Agency.

Sec. 12. NRS 445B.830 is hereby amended to read as follows:

445B.830 1. In areas of the State where and when a program is commenced pursuant to NRS 445B.770 to 445B.815, inclusive, the following fees must be paid to the Department of Motor Vehicles and accounted for in the Pollution Control Account, which is hereby created in the State General Fund:

(a) For the issuance and annual renewal of a license for an authorized inspection station, authorized maintenance station, authorized station or fleet station.....$25

(b) For each set of 25 forms certifying emission control compliance.....150

(c) For each form issued to a fleet station.....6

2. Except as otherwise provided in subsections 6, 7 and 8, and after deduction of the amounts distributed pursuant to subsection 4, money in the Pollution Control Account may, pursuant to legislative appropriation or with the approval of the Interim Finance Committee, be expended by the following agencies in the following order of priority:

(a) The Department of Motor Vehicles to carry out the provisions of NRS 445B.770 to 445B.845, inclusive.

(b) The State Department of Conservation and Natural Resources to carry out the provisions of this chapter.

(c) The State Department of Agriculture to carry out the provisions of NRS 590.010 to 590.150, inclusive.

(d) Local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air.

(e) The ***Nevada*** Tahoe Regional Planning Agency to carry out the provisions of NRS ~~[277.200]~~ ***278.780 to 278.828, inclusive, and section 3 of this act*** with respect to the preservation and improvement of air quality in the Lake Tahoe Basin.

3. The Department of Motor Vehicles may prescribe by regulation routine fees for inspection at the prevailing shop labor rate, including,

without limitation, maximum charges for those fees, and for the posting of those fees in a conspicuous place at an authorized inspection station or authorized station.

4. The Department of Motor Vehicles shall make quarterly distributions of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408. The distributions of money made to agencies in a county pursuant to this subsection must be made from an amount of money in the Pollution Control Account that is equal to one-sixth of the amount received for each form issued in the county pursuant to subsection 1.

5. Each local governmental agency that receives money pursuant to subsection 4 shall, not later than 45 days after the end of the fiscal year in which the money is received, submit to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee a report on the use of the money received.

6. The Department of Motor Vehicles shall by regulation establish a program to award grants of money in the Pollution Control Account to local governmental agencies in nonattainment or maintenance areas for an air pollutant for which air quality criteria have been issued pursuant to 42 U.S.C. § 7408, for programs related to the improvement of the quality of the air. The grants to agencies in a county pursuant to this subsection must be made from any excess money in the Pollution Control Account. As used in this subsection, "excess money" means the money in excess of $1,000,000 remaining in the Pollution Control Account at the end of the fiscal year, after deduction of the amounts distributed pursuant to subsection 4 and any disbursements made from the Account pursuant to subsection 2.

7. Any regulations adopted pursuant to subsection 6 must provide for the creation of an advisory committee consisting of representatives of state and local agencies involved in the control of emissions from motor vehicles. The committee shall:

(a) Review applications for grants and make recommendations for their approval, rejection or modification;

(b) Establish goals and objectives for the program for control of emissions from motor vehicles;

(c) Identify areas where funding should be made available; and

(d) Review and make recommendations concerning regulations adopted pursuant to subsection 6 or NRS 445B.770.

8. Grants proposed pursuant to subsections 6 and 7 must be submitted to the appropriate deputy director of the Department of Motor Vehicles and the Administrator of the Division of Environmental Protection of the State Department of Conservation and Natural Resources. Proposed grants approved by the appropriate deputy director and the Administrator must not be awarded until approved by the Interim Finance Committee.

Sec. 13. NRS 528.150 is hereby amended to read as follows:

528.150 1. On or before January 1 of each year, the State Forester Firewarden shall, in coordination and cooperation with the ***Nevada*** Tahoe Regional Planning Agency and the fire chiefs within the Lake Tahoe Basin, submit a report concerning fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin to:

(a) The Legislative Committee for the Review and Oversight of the ***Nevada*** Tahoe Regional Planning Agency and Marlette Lake Water System created by NRS 218E.555 and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature;

(b) The Governor;

(c) The ***Nevada*** Tahoe Regional Planning Agency; and

(d) Each United States Senator and Representative in Congress who is elected to represent the State of Nevada.

2. The report submitted by the State Forester Firewarden pursuant to subsection 1 must address, without limitation:

(a) The status of:

(1) The implementation of plans for the prevention of fires in the Nevada portion of the Lake Tahoe Basin, including, without limitation, plans relating to the reduction of fuel for fires;

(2) Efforts concerning forest restoration in the Nevada portion of the Lake Tahoe Basin; and

(3) Efforts concerning rehabilitation of vegetation, if any, as a result of fire in the Nevada portion of the Lake Tahoe Basin.

(b) Compliance with:

(1) The goals and policies for fire prevention and forest health in the Nevada portion of the Lake Tahoe Basin; and

(2) Any recommendations concerning fire prevention or public safety made by any fire department or fire protection district in the Nevada portion of the Lake Tahoe Basin.

(c) Any efforts to:

(1) Increase public awareness in the Nevada portion of the Lake Tahoe Basin regarding fire prevention and public safety; and

(2) Coordinate with other federal, state, local and private entities with regard to projects to reduce fire hazards in the Nevada portion of the Lake Tahoe Basin.

Sec. 14. NRS 540A.030 is hereby amended to read as follows:

540A.030 1. In each county to which this chapter applies, except as otherwise provided in subsections 2 and 3, the region within which water is to be managed, and with respect to which plans for its use are to be made, pursuant to this chapter is the entire county except:

(a) Any land within the region defined by NRS ~~[277.200, the Tahoe Regional Planning Compact;]~~ ***278.790;*** and

(b) Lands located within any Indian reservation or Indian colony which are held in trust by the United States.

2. The board may exclude from the region any land which it determines is unsuitable for inclusion because of its remoteness from the sources of supply managed pursuant to this chapter or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the region.

3. The board may include within the region an area otherwise excluded if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or another benefit from planning or management performed in the region.

Sec. 15. Section 1 of The Lake Tahoe Basin Act of 1993, being chapter 355, Statutes of Nevada 1993, at page 1152, is hereby amended to read as follows:

Section 1. Program to mitigate environmentally detrimental effects of land coverage: Establishment; authority of state land registrar.

1. The Division of State Lands of the State Department of Conservation and Natural Resources shall, within the limits of available money, establish a program to mitigate the environmentally detrimental effects of land coverage in the Lake Tahoe Basin.

2. In carrying out the program the Division may, as the State Land Registrar deems appropriate regarding particular parcels of land:

(a) Acquire by donation, purchase or exchange real property or any interest in real property in the Lake Tahoe Basin.

(b) Transfer by sale, lease or exchange real property or any interest in real property in the Lake Tahoe Basin.

(c) Eliminate land coverage on real property acquired pursuant to paragraph (a).

(d) Eliminate, or mitigate the effects of, features or conditions of real property acquired pursuant to paragraph (a) which are detrimental to the environment of the Lake Tahoe Basin.

(e) Retire or otherwise terminate rights to place land coverage on real property in the Lake Tahoe Basin.

3. Any acquisition of real property or any interest in real property made pursuant to this section must first be approved by the State Board of Examiners. The price of the acquisition must be based on the fair market value of the property or interest as determined by a qualified appraiser.

4. The State Land Registrar may transfer real property or any interest in real property acquired pursuant to this section:

(a) To state and federal agencies, local governments and nonprofit organizations for such consideration as the State Land Registrar deems to be reasonable and in the interest of the general public.

(b) To other persons for a price that is not less than the fair market value of the real property or interest as determined by a qualified appraiser.

5. ~~[Before any real property or an interest in real property is transferred pursuant to this section, a declaration of restrictions or deed restrictions must be recorded as required by the Tahoe Regional Planning Agency to ensure~~

~~that rights to place land coverage on the real property are retired or otherwise terminated.~~

~~— 6.]~~ The State Land Registrar shall report quarterly to the State Board of Examiners regarding the real property or interests in real property transferred pursuant to this section.

~~[7.]~~ ***6.*** As used in this section, "land coverage" means any covering over the natural surface of the ground that prevents water from percolating into the ground.

Sec. 16. Section 22 of the Western Regional Water Commission Act, being chapter 531, Statutes of Nevada 2007, at page 3289, is hereby amended to read as follows:

Sec. 22. Planning area: Boundaries; exclusions; exceptions.

1. The planning area in which plans for the use, management and conservation of water are to be made, pursuant to this act, is the entire area within the boundaries of Washoe County except:

(a) Any land within the region defined by NRS ~~[277.200, the Tahoe Regional Planning Compact;]~~ ***278.790;***

(b) Land located within any Indian reservation or Indian colony which is held in trust by the United States;

(c) Land located within the Gerlach General Improvement District or its successor created pursuant to chapter 318 of NRS;

(d) Land located within the following administrative groundwater basins established by the United States Geological Survey and the Division of Water Resources of the State Department of Conservation and Natural Resources:

(1) Basin 22 (San Emidio Desert);

(2) Basin 23 (Granite Basin); and

(3) Basin 24 (Hualapai Flat); and

(e) Any land excluded by the Board pursuant to subsection 2 and not otherwise included pursuant to subsection 3.

2. The Board may exclude from the planning area any land which it determines is unsuitable for inclusion because of its remoteness from the water supplies which are the subject of the Comprehensive Plan or because it lies within a separate hydrologic basin neither affecting nor affected by conditions within the remainder of the planning area.

3. The Board may include within the planning area any land otherwise excluded pursuant to subsection 2 if it finds that the land requires alleviation of the effect of flooding or drainage of storm waters or requires another benefit from planning or management performed in the planning area.

Sec. 17. Section 24 of chapter 574, Statutes of Nevada 1979, at page 1134, is hereby amended to read as follows:

Sec. 24. 1. This section shall become effective upon passage and approval.

2. All other sections of this act shall become effective upon ~~[proclamation]~~ ***:***

(a) Withdrawal from the Tahoe Regional Planning Compact by the State of Nevada; or

(b) Proclamation by the governor of a withdrawal from the Tahoe Regional Planning Compact by the State of California or of his finding that the Tahoe Regional Planning Agency has become unable, for lack of money or for any other reason, to perform its duties or to exercise its powers as provided in the compact ~~[.]~~ ***,***

➥ whichever is earlier.

Sec. 17.3. **Section 3 of chapter 22, Statutes of Nevada 1987, at page 53, is hereby amended to read as follows:**

Sec. 3. ~~[This]~~ ***Except as otherwise provided in this section, this*** **act becomes effective upon passage and approval.** ***This act does not become effective unless the contingent events described in section 2 of this act have occurred before January 1, 2011.***

Sec. 17.7. **Section 4 of chapter 311, Statutes of Nevada 1997, at page 1170, is hereby amended to read as follows:**

Sec. 4. 1. This section ~~[and section 3 of this act become]~~ ***becomes*** effective upon passage and approval.

2. Section 1 of this act ~~[:~~

~~(a) Becomes]~~ ***becomes*** effective upon ~~[proclamation by the governor of this state of]~~ the enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1 of this act ***.*** ~~[, unless the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28, have been approved by the Congress of the United States before the governor issues his proclamation; and~~

~~(b) Expires by limitation upon approval by the Congress of the United States of the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28.~~

~~3. Section 2 of this act becomes effective upon proclamation by the governor of this state of:~~

~~(a) The enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 2 of this act; and~~

~~(b) The approval by the Congress of the United States of the amendments proposed to the Tahoe Regional Planning Compact by chapter 22, Statutes of Nevada 1987, at page 28.]~~

Sec. 18. 1. NRS 244.153, 266.263, 267.123, 268.099, 269.123, 277.190, 277.200, 277.210, 277.215, 278.025, 278.826, 309.385 and 318.103 are hereby repealed.

2. Sections 1 and 2 of chapter 442, Statutes of Nevada 1985, at pages 1257 and 1258, respectively, are hereby repealed.

3. NRS 277.220 is repealed effective upon:

(a) Payment of all of the outstanding obligations of the Account for the Tahoe Regional Planning Agency created by NRS 277.220; and

(b) Transfer of the remaining balance, if any, in the Account for the Tahoe Regional Planning Agency to the Account for the Nevada Tahoe Regional Planning Agency created by section 3 of this act, as required by section 21 of this act.

Sec. 19. Except as otherwise provided in NRS 278.792 as amended by section 6 of this act, the governing body, officers, advisory planning commission, executive officer, staff and legal counsel elected or appointed pursuant to NRS 278.780 to 278.828, inclusive, shall remain in their respective offices with the Nevada Tahoe Regional Planning Agency after the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact and until the expiration of their terms, termination by the appointing authority or forfeiture of office.

Sec. 19.5. **1. With respect to any approval or permit for a project that was given or issued, as applicable, by the Tahoe Regional Planning Agency before the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact:**

(a) The permit or approval remains valid after that date; and

(b) The Nevada Tahoe Regional Planning Agency shall assume the responsibility of enforcing the conditions, if any, of the approval or permit.

2. With respect to any application that was pending before the Tahoe Regional Planning Agency on the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact, the Nevada Tahoe Regional Planning Agency shall process the application without requiring any new or additional filings or submissions.

Sec. 20. To protect the legal rights and interests of the State of Nevada and the Nevada Tahoe Regional Planning Agency, the Attorney General shall, as expeditiously as possible, cause appropriate legal action to be taken to resolve, settle or terminate any proposed or pending litigation:

1. In which the Tahoe Regional Planning Agency is a party; and

2. Which involves the rights, interests, obligations or liabilities of the State of Nevada, residents of this State or the Nevada Tahoe Regional Planning Agency.

Sec. 21. As soon as practicable after ~~[the effective date of this act:]~~ **the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact:**

1. Any unexpended balance appropriated by the State of Nevada to, and under the control of, the Tahoe Regional Planning Agency; and

2. After the payment of any outstanding obligations pursuant to subsection 3 of section 18 of this act, any balance remaining in the Account for the Tahoe Regional Planning Agency created by NRS 277.220,

➥ must be transferred to the Account for the Nevada Tahoe Regional Planning Agency created by section 3 of this act.

Sec. 22. As soon as practicable after ~~[the effective date of this act,]~~ **the date on which the State of Nevada withdraws from the Tahoe Regional Planning Compact,** the governing body of the Nevada Tahoe Regional Planning Agency shall:

1. Adopt a regional plan pursuant to its authority set forth in NRS 278.8111.

2. Adopt all necessary ordinances, rules, regulations and policies to effectuate the adopted regional plan pursuant to its authority set forth in NRS 278.813.

Sec. 22.5. **1. In addition to exercising the powers and performing the duties set forth in NRS 218E.550 to 218E.580, inclusive, the Committee shall hold hearings on, and prepare for the Legislature a report concerning, the following matters:**

(a) The proposed organization and staffing of the Nevada Tahoe Regional Planning Agency which would be necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(b) A proposed schedule for the Nevada Tahoe Regional Planning Agency to adopt a regional plan and ordinances as necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(c) The proposed annual budget, including, without limitation, estimated legal expenses, of the Nevada Tahoe Regional Planning Agency which would be necessary for that entity to assume the powers and duties of the Tahoe Regional Planning Agency for the portion of the Lake Tahoe Basin within the State of Nevada.

(d) An assessment of any potential:

(1) Consequences, including, without limitation, legal consequences, transportation consequences, moratoria on permitting and potential impacts to the economy which would likely occur; and

(2) Legal expenses, including, without limitation, litigation expenses, which would likely be incurred,

➥ in the event that the State of Nevada withdraws from the Tahoe Regional Planning Compact.

(e) Progress of the governing board of the Tahoe Regional Planning Agency toward amending or otherwise revising the regional plan described in the Tahoe Regional Planning Compact to include, without limitation:

(1) Delegation of appropriate planning matters to local, state and federal governmental entities as may be allowed by law; and

(2) Concurrence from the Executive Branches of State Government of the States of Nevada and California with respect to guiding principles and a schedule for amending the regional plan.

(f) Progress toward approving the amendments to the Tahoe Regional Planning Compact set forth in section 1.5 of this act.

2. On or before December 31, 2012, the Committee shall submit the report described in subsection 1 to the Director of the Legislative Counsel Bureau for transmission to the 77th Session of the Nevada Legislature.

3. As used in this section, "Committee" means the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218E.555.

Sec. 23. **1.** The Secretary of State shall transmit ~~[a]~~ **:**

(a) A certified copy of this act to:

~~[1.]~~ **(1)** The Governor of the State of California; and

~~[2.]~~ **(2)** The governing body of the Tahoe Regional Planning Agency.

(b) Two certified copies of this act to the Secretary of State of California for delivery to the respective Houses of its Legislature.

2. The Director of the Legislative Counsel Bureau shall transmit copies of section 1.5 of this act to each public officer, agency or other entity that he or she deems appropriate.

3. The Governor of this State, as soon as:

(a) The State of California has enacted amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act; and

(b) The amendments have been approved pursuant to Public Law 96-551,

➥ shall proclaim that the compact has been amended as provided in this act.

Sec. 23.5. **If all of the events described in subsection 4 of section 25 of this act have not yet taken place as of July 1, 2014, the Governor, on or after that date, but before October 1, 2014:**

1. Shall assess whether it is likely that all of the events described in subsection 4 of section 25 of this act will take place in the reasonably foreseeable future; and

2. May, if the Governor determines it is likely that all of the events described in subsection 4 of section 25 of this act will take place in the reasonably foreseeable future, issue a proclamation to that effect. If the Governor issues the proclamation described in this subsection, sections 1, 2 to 22, inclusive, and 24 of this act must not become effective until October 1, 2017.

Sec. 24. The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose responsibilities are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 25. 1. This section and sections ~~[1, 3, 6, 17, 21, 22]~~ **17.3, 17.7, 22.5, 23** and ~~[23]~~ **23.5** of this act become effective upon passage and approval.

2. ~~[Sections]~~ **Section 22.5 of this act expires by limitation on January 1, 2013.**

3. Section 1.5 of this act becomes effective upon proclamation by the Governor of this State of:

(a) The enactment by the State of California of amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act; and

(b) The approval of the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act pursuant to Public Law 96-551.

4. Except as otherwise provided in subsection 5, sections 1, 2 ~~[, 4, 5, 7 to 16,]~~ **to 22,** inclusive, ~~[18, 19, 20]~~ and 24 of this act become effective on October 1, ~~[2011,]~~ **2014, unless, by that date, all of the following events have occurred:**

(a) The State of California has enacted amendments that are substantially identical to the amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act;

(b) The amendments to the Tahoe Regional Planning Compact contained in section 1.5 of this act have been approved pursuant to Public Law 96-551; and

(c) The governing board of the Tahoe Regional Planning Agency has adopted an update to the 1987 Regional Plan.

5. In the event that the Governor of this State issues a proclamation pursuant to section 23.5 of this act, sections 1, 2 to 22, inclusive, and 24 of this act become effective on October 1, 2017.

LEADLINES OF REPEALED SECTIONS OF NRS AND TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

244.153 Public works: County's powers subordinate to powers of regional planning agency.

266.263 Public works: City's powers subordinate to powers of regional planning agency.

267.123 Public works: City's powers subordinate to powers of regional planning agency.

268.099 City's powers subordinate to powers of regional planning agency.

269.123 Town's powers subordinate to powers of regional planning agency.

277.190 Enactment of Tahoe Regional Planning Compact.

277.200 Text of Compact. [Effective until approval by the Congress of the United States of the proposed amendments of 1987 or until proclamation by the Governor of this State that the State of California has enacted amendments substantially similar to the amendments approved in 1997 by the Legislature of this State.]

277.210 Conflict of interest of member of governing body; penalties.

277.215 Violation of certain provisions of Code of Ordinances of Tahoe Regional Planning Agency: Peace officer authorized to take various actions; reporting of name and address of violator; exception.

277.220 Account for Tahoe Regional Planning Agency: Creation; source and use of money.

278.025 Powers of regional planning agency created by interstate compact.

278.826 Assumption of powers and duties by Agency. [Effective upon proclamation by Governor of withdrawal of California from Tahoe Regional Planning Compact or of finding by Governor that the Tahoe Regional Planning Agency has become unable to perform its duties or exercise its powers.]

309.385 Powers of district concerning location and construction of improvements subordinate to powers of regional planning agency.

318.103 Powers of district concerning location and construction of improvements subordinate to powers of regional planning agency.

Section 1 of chapter 442, Statutes of Nevada 1985, page 1257:

Section 1. NRS 278.792 is hereby amended to read as follows:

278.792 1. The Nevada Tahoe regional planning agency is hereby created as a separate legal entity.

2. The governing body of the agency consists of:

(a) One member appointed by each of the boards of county commissioners of Douglas and Washoe counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and must reside in the territorial jurisdiction of the governmental body making the appointment.

(b) ~~[One member]~~ ***Two members*** appointed by the governor ~~[of Nevada, the secretary of state of Nevada or his designee, and the director of the state department of conservation and natural resources of Nevada or his designee. A member who is appointed or designated pursuant to this paragraph must not be a resident of the region and shall represent the public at large within the State of Nevada.~~

~~(c) One member appointed for a 1-year term by the six other members. If at least four members are unable to agree upon the selection of a seventh member within 30 days after this section becomes effective or the occurrence of a vacancy, the governor shall make the appointment. The member appointed pursuant to this~~

~~paragraph may but is not required to be a resident of the region.~~] ***of this state.***

(c) One member appointed by the speaker of the assembly, and one member appointed by the majority leader of the senate, of this state.

3. If any appointing authority fails to make an appointment within 30 days after the effective date of this section or the occurrence of a vacancy on the governing body, the governor shall make the appointment.

4. The position of any member of the governing body shall be deemed vacant if the member is absent from three consecutive meetings of the governing body in any calendar year.

5. Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing body or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this section, "economic interest" means:

(a) Any business entity operating in the region in which the member has a direct or indirect investment worth more than $1,000 ***;*** ~~[.]~~

(b) Any real property located in the region in which the member has a direct or indirect interest worth more than $1,000 ***;*** ~~[.]~~

(c) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(d) Any business entity operating in the region in which the member is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency may make or attempt to influence ~~[an agency decision]~~ ***a decision of the agency*** in which he knows or has reason to know he has a financial interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interest of the member or employee.

Section 2 of chapter 442, Statutes of Nevada 1985, page 1258:

Sec. 2. 1. This section becomes effective upon passage and approval.

2. All other sections of this act become effective 1 minute after a proclamation by the governor of the amendment of Article III(a)(2)

of the Tahoe Regional Planning Compact as proposed by Assembly Bill No. 433 of this session.

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. 802 to Senate Bill No. 271 provides that Nevada's withdrawal from the Tahoe Regional Planning Compact will take effect on October 1, 2014, unless the proposed changes in Senate Bill No. 271 are made to the Compact, and the Tahoe Regional Planning Agency (TRPA) has updated the 1987 regional plan. The Governor may issue a proclamation extending this deadline to October 1, 2017.

The amendment removes the supermajority requirement for members voting on matters considered by the TRPA.

It requires the regional plan of the TRPA to consider the Basin's changing economic conditions so that the regional plan does not negatively impact the economy at Lake Tahoe.

It provides that a person who challenges the regional plan has the burden of proof to show that the plan violates the Compact.

The amendment makes various changes throughout the Compact that will not become effective until such time as the State of Nevada pulls out of the Compact. The amendment retains the membership of the Nevada Secretary of State as a member of the Nevada TRPA if Nevada pulls out of the Compact.

The amendment provides that the 1987 proposed amendment to the Compact cannot become effective because it has not yet been ratified.

It provides, if Nevada pulls out of the Compact, that any approval or permit for a project that was issued by the TRPA remains valid.

The amendment requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System to prepare a report detailing certain issues related to and impacts of the withdrawing from the Compact.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 359.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 791.

"SUMMARY—Revises provisions relating to contracts with a governmental entity. (BDR 23-973)"

"AN ACT relating to public financial administration; prohibiting a governmental entity from entering into a contract with an independent contractor unless the independent contractor agrees to a code of conduct; requiring an independent contractor to disclose certain information relating to a contract with a governmental entity; limiting the duration of a sole source contract with a governmental entity ~~[; prohibiting a governmental entity from extending a contract with an independent contractor unless the contract is first opened to competitive bidding; requiring the periodic renegotiation of contracts with a governmental entity that exceed 2 years;]~~ **under certain circumstances; prohibiting the renewal of a sole source contract unless the renewal is approved by a two-thirds vote; limiting the duration of a contract with an independent contractor, other than a sole source**

contract, and authorizing the extension of such a contract upon the approval of the extension by a two-thirds vote; requiring the reporting and posting of certain information relating to sole source contracts; requiring a person who is awarded a contract for a public work to ~~[gather and]~~ report to the public body which awards the contract certain information concerning the **race, ethnicity, age and gender of certain employees and** applicants for employment on the public work; requiring a public body which awards a contract for a public work to gather and report ~~[to]~~ **on the Internet website of** the State Public Works Board certain information concerning the bidders for the contract; requiring the State Public Works Board to ~~[gather and maintain certain information concerning public works reported to it by various public bodies;]~~ **provide for the reporting of such information on its Internet website;** requiring the ~~[State Board of Examiners to review and approve in advance each contract]~~ **Department of Transportation to post on its website certain information about certain contracts** for the provision of professional services entered into by the Department **;** ~~[of Transportation;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 8 of this bill requires the Purchasing Division of the Department of Administration to prescribe a code of conduct for independent contractors who enter into a contract with a public body which requires such an independent contractor to abide by all state ethics laws, maintain records of all work done pursuant to such a contract and make these records available for audit. **Section 9** of this bill requires an independent contractor to disclose any fees charged to ~~[consumers]~~ **persons who are not a party to the contract** under a contract with a public body and to annually report ~~[such income.]~~ **the total dollar amount of such fees. Section 10** of this bill requires an independent contractor to disclose certain information relating to any subcontractors used to perform a contract with a public body. **Section 14** of this bill provides that if an independent contractor violates any provision of **sections 8-10**, the public body may terminate the contract **.** ~~[and the independent contractor is permanently prohibited from entering into a contract with a public body.]~~

Section 11 of this bill: (1) prohibits a public body from entering into a sole source contract for a period exceeding 2 years ~~[;]~~ **unless the longer period is necessary for the recovery of capital costs; and** (2) prohibits a public body from ~~[extending]~~ **renewing a sole source contract unless the governing body of the public body approves the renewal by a two-thirds vote. Section 11.5 of this bill authorizes a public body to enter into a contract with an independent contractor, other than a sole source contract, for a period of not more than 4 years and to extend** the period of ~~[an existing]~~ **such a** contract ~~[without opening the contract to competitive bidding; and (3) requires a public body to renegotiate every 2 years any contract that exceeds 2 years.]~~ **if the governing body of the public body approves the extension by a two-thirds vote.**

Section 12 of this bill requires each public body that enters into a sole source contract to disclose certain information to the Purchasing Division, which must then post that information on its Internet website. **Section 13** of this bill requires each public body that enters into a sole source contract or that renegotiates a contract with an independent contractor to report information relating to the number and dollar amount of the sole source contracts and **competitively bid** contracts with an independent contractor ~~[~~, ~~as well as the amount of savings generated by renegotiation of the contracts,]~~ to the Purchasing Division, which must then report that information to the Interim Finance Committee.

Section 15 of this bill requires a person who is awarded a contract for a public work to ~~[gather, maintain and]~~ report to the public body awarding the contract certain information concerning the ~~[hiring, wages,]~~ race, ethnicity **, age** and gender of **certain employees and** applicants for employment on the public work. **Section 15** also requires that a public body awarding a contract for a public work must gather, compile, maintain and ~~[report to]~~ **enter on the Internet website of** the State Public Works Board certain information concerning the cost of the public work, the awarding of the contract, the race, ethnicity, **age,** gender, number of employees and length of time in business of the bidders for the contract, and the information received from the person awarded the contract concerning the applicants for employment on the public work. Finally, **section 15** requires that the State Public Works Board ~~[must compile and maintain]~~ **create an application on its Internet website for the entry of** the information ~~[received by the Board]~~ **that each public body is required to enter on the Internet website** in accordance with **section 15**, make the information available to the public and report the information annually to the Director of the Legislative Counsel Bureau.

Section 17 of this bill requires the ~~[State Board of Examiners to review and approve in advance each contract for the provision of professional services entered into by the]~~ Department of Transportation ~~[.]~~ **to post certain information relating to certain contracts for the provision of professional services entered into by the Department on or after July 1, 2011.**

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 14, 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. ***"Independent contractor" means a natural person, firm or corporation who agrees to perform services for a fixed price according to his, her or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.***

Sec. 4. ***"Public body" means*** ~~*[a state, county or municipal department, housing authority, agency or board. The term includes, without limitation, any]*~~ ***a:***

1. County;

2. City;

3. School district; or

4. State agency, bureau, board, commission, department or division or any other unit of the Legislative, Judicial or Executive Department of the State Government, including the Nevada System of Higher Education.

Sec. 5. ***"Purchasing Division" means the Purchasing Division of the Department of Administration.***

Sec. 6. ***"Sole source contract" means a contract entered into between a public body and an independent contractor to provide services for which the independent contractor is the only source capable of providing the services.***

Sec. 7. ***Sections 2 to 14, inclusive, of this act*** ~~*[apply]*~~ ***:***

1. Apply to any contract for services of a person as an independent contractor entered into between a public body and an independent contractor ~~*[.]*~~ ***, unless the contract for services is negotiated as part of a contract for the sale of goods with the same independent contractor.***

2. Do not apply to any contract:

(a) For a public work governed by the provisions of chapter 338 of NRS; or

(b) Relating to a franchise entered into by a local government.

Sec. 8. ***1. The Purchasing Division shall prescribe by regulation a code of conduct for independent contractors. The code of conduct must include, without limitation, provisions stating that the independent contractor:***

(a) Knows and agrees to abide by all applicable state ethics laws;

(b) Agrees to maintain accurate internal records of all work done pursuant to a contract with a public body; and

(c) Agrees to make the records kept pursuant to paragraph (b) available for inspection or audit by the Legislative Auditor and the Division of Internal Audits of the Department of Administration.

2. A public body may not enter into a contract with an independent contractor unless the independent contractor signs and agrees to abide by the code of conduct for contractors prescribed by the Purchasing Division pursuant to this section.

Sec. 9. ***An independent contractor who enters into a contract with a public body shall:***

1. Fully disclose to the public body any fees that will be charged to ~~*[consumers]*~~ ***persons who are not a party to the contract as a part of the contract with the public body.***

2. Report annually to the public body the total dollar amount ~~*[of income]*~~ ***generated by such fees.***

Sec. 10. ***An independent contractor who enters into a contract with a public body shall:***

1. Fully disclose to the public body:

(a) All subcontractors used ~~[or intended to be used]~~ by the independent contractor to perform the contract.

(b) The dollar amount that each subcontractor will be paid by the independent contractor.

(c) Any fees that will be charged to ~~[consumers]~~ persons who are not a party to the contract by each subcontractor as part of the contract with the public body.

2. Report annually to the public body the total dollar amount ~~[of income]~~ generated by the fees disclosed pursuant to paragraph (c) of subsection 1.

Sec. 11. *1. ~~[A]~~ Except as otherwise provided in subsection 2, a public body may not enter into a sole source contract unless the period of the sole source contract does not exceed 2 years.*

2. ~~[A public body may not extend the period of an existing contract with an independent contractor unless the public body first opens the contract to competitive bidding.~~

~~3. If a public body enters into a contract with an independent contractor with a period that exceeds 2 years, the public body and the independent contractor shall renegotiate the terms of the contract on the second anniversary of the date that the contract was entered into and every 2 years thereafter.]~~ A public body may enter into a sole source contract whose period exceeds 2 years if the longer period is necessary for the recovery of capital costs through extended amortization.

3. A public body may not renew a sole source contract unless the governing body of the public body approves the renewal by a two-thirds vote. For the purposes of this subsection, the governing body of a state agency is the State Board of Examiners.

Sec. 11.5. *A public body may enter into a contract with an independent contractor, other than a sole source contract, for a period of not more than 4 years. Such a contract may be extended if the governing body of the public body that awarded the contract approves the extension by a two-thirds vote. For the purposes of this section, the governing body of a state agency is the State Board of Examiners.*

Sec. 12. *1. A public body that enters into a sole source contract shall transmit to the Purchasing Division information relating to the sole source contract, including, without limitation, the name of the public body, the name of the independent contractor and a brief description of the services for which the public body entered into the sole source contract.*

2. The Purchasing Division shall post any information received pursuant to this section on its Internet website.

Sec. 13. *1. A public body that enters into a sole source contract or renegotiates a contract with an independent contractor shall report to the*

Purchasing Division before August 1 of each year, for the preceding fiscal year:

(a) The number of sole source contracts entered into by the public body;

(b) The number of competitively bid contracts with an independent contractor entered into by the public body;

(c) The dollar amount of each sole source contract entered into by the public body;

(d) The dollar amount of each competitively bid contract with an independent contractor entered into by the public body; and

(e) The dollar amount of savings generated by renegotiations of all contracts with an independent contractor.

2. The Purchasing Division shall, on or before September 1 of each year, prepare and submit to the Interim Finance Committee a report detailing the information received pursuant to subsection 1 for the previous fiscal year for all public bodies.

Sec. 14. ***If an independent contractor violates any provision of section 8, 9 or 10 of this act [:***

1. The] , the public body may terminate the contract with the independent contractor . [; and

2. The independent contractor is permanently prohibited from entering into a contract with a public body.]

Sec. 15. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public body which awards a contract for a public work shall:

(a) Gather and maintain, for every person who submits a bid or otherwise competes for the contract, the following information:

(1) The cost of the public work;

(2) Whether the person was awarded the contract;

(3) The race, ethnicity , age and gender of the person;

(4) The number of employees of the person at the time the person submitted the bid; and

(5) The length of time for which the person had been in business at the time the person submitted the bid;

(b) Include in the contract a clause requiring the person who is awarded the contract to:

(1) Gather and maintain the information required by subsection 2; and

(2) Report and update the information as required by subsection 2;

(c) Compile and maintain the information reported to the public body pursuant to subsection 2 by the person who is awarded the contract; [and]

(d) [Report to] Enter or cause to be entered through the application on the Internet website of the State Public Works Board created pursuant to paragraph (a) of subsection 3 the information which the public body:

(1) Gathers and maintains pursuant to paragraph (a) [;] within 30 days after the opening of bids; and

(2) Compiles and maintains pursuant to paragraph (c) ~~.~~ ; and

(e) Deem a bid that does not contain the information that the public body is required to gather and maintain pursuant to paragraph (a) to be not responsive.

2. The person who is awarded the contract by the public body shall ~~:~~

~~(a) Gather and maintain, for every applicant for employment on the public work with the person who is awarded the contract and with every~~ ***require each*** *contractor, subcontractor and other person who provides labor, equipment, materials, supplies or services for the public work ~~, the following information:~~*

~~(1) The wages being offered for the job;~~

~~(2) Whether the applicant was hired for the job; and~~

~~(3) The race, ethnicity and gender of the applicant; and~~

~~(b) Report to the public body the information gathered and maintained pursuant to paragraph (a).~~ ***to:***

(a) Identify the race, ethnicity, age and gender, if known, of every person reported on the certified payroll of the contractor, subcontractor or other person; and

(b) Submit a report to the public body following the conclusion of the public work which identifies the race, ethnicity, age and gender, if known, of each person who, during the duration of the contract for the public work, applied for employment on the public work and the wage or salary of the job for which the person applied.

➥ The provisions of this subsection apply only with respect to employees and applicants for employment who applied directly to the contractor, subcontractor or other person for employment rather than applying for employment through another entity such as an employment agency or trade union.

3. The State Public Works Board shall:

(a) ~~[Compile and maintain the information reported by a public body pursuant to subsection 1;]~~ Create an application on its Internet website for a public body to enter or cause to be entered the information gathered and maintained by the public body pursuant to subsection 1 that does not allow for the entry of any personal information, as that term is defined in NRS 603A.040;

(b) Make available to the public the information ~~[compiled and maintained]~~ entered pursuant to paragraph (a) ~~[after removing any personal information, as that term is defined in NRS 603A.040;]~~ ; and

(c) Report annually the information ~~[compiled and maintained]~~ entered pursuant to paragraph (a) to the Director of the Legislative Counsel Bureau in any format requested by the Director.

4. For the purposes of subsection 1, if a person who submits a bid or otherwise competes for the contract is:

(a) A design-build team, the public body must gather and maintain the required information for each member of the design-build team.

(b) Not a natural person, the public body must gather and maintain the required information , if known, for each natural person who ~~[owns or controls all or a portion of]~~ holds a controlling interest in the person who submits the bid or otherwise competes for the contract.

Sec. 16. (Deleted by amendment.)

Sec. 17. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[Before the Department enters into a contract with a professional who is not a member of a design-build team for the provision of services, the Department must submit the proposed contract to the State Board of Examiners. The contract does not become effective without the prior approval of the State Board of Examiners.~~

~~2. The State Board of Examiners shall review each contract submitted for approval pursuant to subsection 1 to consider:~~

~~(a) Whether sufficient authority exists to expend the money required by the contract; and~~

~~(b) Whether the service which is the subject of the contract could be provided by a state agency or employee in a more cost-effective manner.~~

~~➥ If the contract submitted for approval continues an existing contractual relationship, the State Board of Examiners shall require the Department to ensure that the Department is receiving the services that the contract purports to provide.~~

~~3.]~~ For any contract with a professional who is not a member of a design-build team for the provision of services entered into by the Department on or after July 1, 2011, within 30 days after entering into the contract, the Department shall post information relating to the contract on its Internet website, including, without limitation, the name of the professional, a brief description of the services for which the Department entered into the contract and the cost of the contract.

2. As used in this section, "professional" includes, without limitation, an architect, an attorney, an engineer, a landscape architect and a surveyor.

Sec. 18. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 18.5. **1. Contracts entered into before October 1, 2011, are not subject to the provisions of sections 1 to 14, inclusive, of this act.**

2. Contracts entered into before July 1, 2011, are not subject to the provisions of sections 15 and 17 of this act.

Sec. 19. Before October 1, 2011, the Purchasing Division of the Department of Administration shall adopt any regulations required by section 8 of this act.

Sec. 20. 1. This section and sections 18 **, 18.5** and 19 of this act become effective upon passage and approval.

2. Sections 1 to 14, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks; and

(b) On October 1, 2011, for all other purposes.

3. Sections 15 ~~[, 16]~~ and 17 of this act become effective on July 1, 2011.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 359, as amended, revises provisions pertaining to contracts entered into by public bodies, which are defined as counties, cities, school districts and state agencies, boards and commissions. The bill prohibits public bodies from entering into a contract with an independent contractor unless the independent contractor agrees to a code of conduct. The code of conduct requires independent contractors to abide by all State ethics laws and to maintain accurate internal records of all work done pursuant to the contract with a public body and agrees to make all records available for inspection and audit.

Senate Bill No. 359 requires independent contractors to disclose fees charged to persons who are not a party to the contract and to annually report the total dollar amount of such fees. The bill also prohibits a public body from entering into a sole source contract for a period exceeding two years unless the longer period is necessary to recover capital costs. Public bodies are also prohibited from renewing a sole source contract unless the governing body of the public body approves the renewal by a two-thirds vote. Public bodies are authorized to enter into a contract with an independent contractor, other than a sole source contract, for a period of not more than four years, and to extend the period of such a contract if the governing body of the public body approves the extension by a two-thirds vote. Public bodies must report information relating to the number and dollar amount of the sole source contracts and competitively bid contracts with an independent contractor to the Purchasing Division, which must then report that information to the Interim Finance Committee.

Senate Bill No. 359 requires a person who is awarded a contract for a public work to report to the public body awarding the contract certain information concerning race, ethnicity, age and gender of certain employees and applicants for employment on the public work.

Finally, Senate Bill No. 359 requires that a public body awarding a contract for a public work must gather, compile, maintain and enter on the Internet website of the State Public Works Board certain information concerning the cost of the public work, the awarding of the contract, the race, ethnicity, age, gender, number of employees and length of time in business of the bidders for the contract, and the information received from the person awarded the contract concerning the applicants for employment on the public work.

Senate Bill No. 359 is effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks and October 1, 2011 for all other purposes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 6, 10, 12, 13, 15, 17, 21, 25, 33, 38, 45, 58, 63, 66, 67, 79, 109, 117, 137, 157, 167, 196, 209, 328, 331, 353, 368, 387, 390, 441, 495; Senate Joint Resolution No. 4; Assembly Bills Nos. 19, 29, 109, 138, 154, 170, 227, 237, 246, 248, 249, 253, 254, 276, 280, 290, 292, 306, 313, 317, 318, 368, 373, 395, 396, 420, 451, 454, 455, 472, 480, 481, 483, 533, 534, 535, 544, 564, 566; Assembly Joint Resolution No. 1.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to the following students from the Grace Christian Academy: Ruth Boogman, Julia Dreyer, Jo Tkaczyk, Sebastian Zeron, Jefferson Cummings, Megan Penwell, Blake Ranalla, Jacob Rodriguez, Ilena Madraso, Tracey Cummings and Karina Madraso.

On request of Senator Roberson, the privilege of the Floor of the Senate Chamber for this day was extended to students from the Advanced Technologies Academy.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Branch Rickey and Donald Logan.

Senator Horsford moved that the Senate adjourn until Friday, May 27, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 3:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND TENTH DAY

CARSON CITY (Friday), May 27, 2011

Senate called to order at 1 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Norm Milz.

O Lord God, thank You for guiding us so far in this Legislative Session. Be with us as we diligently and thoughtfully consider all the issues before us today and act in the most positive way for the citizens of this State.

As we come into the last two weeks of the Session, the budget decisions loom before us. The deficit is large and the solutions to close that gap seem to be getting smaller. Guide us through the tough decisions that will need to be made to make this State solvent and continue to grow.

As the Senate, in union with the Assembly, keep us all focused on the growth of this State and the good of its citizens.

We lift up all these things to You and You alone, for only with You are all things possible. In the Name of Your Son, Jesus Christ.

AMEN.

Pledge of Allegiance to the Flag.

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 Mastroluca, 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, McArthur, Munford, Neal, Oceguera, Ohrenschall, Pierce, Segerblom, Sherwood, Smith, Stewart and Woodbury:

Senate Concurrent Resolution No. 13—Commending Casey Family Programs for its dedication in helping children and families across the nation.

WHEREAS, At any given time, there are nearly a half million children in foster care in the United States, many of whom have suffered abuse or severe neglect and are traumatized by circumstances beyond their control; and

WHEREAS, Jim Casey, the founder of United Parcel Service, always credited his mother Annie E. Casey with holding their family together after Jim's father died and realized that many children lacked the family life he knew to be crucial; and

WHEREAS, Jim Casey, along with his brothers George and Harry and sister Marguerite, created Casey Family Programs in 1966 to help children who are unable to live with their birth parents, giving those children stability and an opportunity to grow to responsible adulthood; and

WHEREAS, With field offices in five states, Casey Family Programs offers strategic consulting services to about half of the 50 states, including Nevada, provides state and federal lawmakers, counties and Native American tribes with nonpartisan research and technical expertise and assists in the crafting of policies and laws to improve the lives of at-risk children; and

WHEREAS, Approximately 270,000 adults incarcerated in America's prisons were once in foster care, and a child in foster care has a 25 percent chance of becoming homeless within

18 months after emancipation from care, is subject to posttraumatic stress disorder and often is not prepared to live on his or her own after transitioning from foster care; and

WHEREAS, Casey Family Programs has provided a unique tool to help youths combat these problems by creating the Casey Life Skills website, which offers online assessments with instant feedback, customized learning plans and learning resources, as well as information regarding career planning, daily living, housing and money management, social relationships, and work and study skills, to enable youths to get the life skills necessary not only to survive, but to thrive on their own; and

WHEREAS, As the nation's largest operating foundation focused entirely on foster care and improving the child welfare system, Casey Family Programs has invested more than $1.6 billion in programs and services to benefit children and families in the child welfare system; and

WHEREAS, Over the next decade, Casey Family Programs will continue to invest to fulfill the 2020 Strategy: A Vision for America's Children, a plan for safely reducing the number of children in foster care by 50 percent, improving the lives of those who remain in foster care and ensuring that children who grow up in foster care are prepared for independent living and have equitable access to education, employment and mental health services; and

WHEREAS, Improving the future of the nation's children who are in foster care is a daunting task, but one that Casey Family Programs has taken on with fervor to protect and ensure the future of our children; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the members of the 76th Session of the Nevada Legislature hereby commend Casey Family Programs for its commitment to at-risk children and praise its dedication to improving the lives of children and families in the child welfare system; and be it further

RESOLVED, That the Secretary of the Senate prepare and transmit a copy of this resolution to Casey Family Programs.

Senator Horsford moved the adoption of the resolution.

Remarks by Senator Horsford.

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

I rise today to honor James E. Casey, a great Nevadan, a great businessman, and a great philanthropist. His life is one of America's most fascinating success stories.

Jim Casey's father, Henry Joseph Casey, was a poor Irish immigrant who came west in 1887 with his newlywed wife, Annie. Jim Casey was born on March 29, 1888, in Pickhandle Gulch, a mining camp near Candelaria, Nevada, where his father was employed as a quartz miner. After 1893, when Jim was about five years old, the development of the mines in Candelaria dried up, and the family moved on to Seattle, which was then the jumping off place for the Klondike gold rush, in hopes of finding a better life. Seattle was a rough town; there were many temptations and dangers for a young man. He always credited, by guidance and by example, his mother, who kept him safe and grounded. The family struggled with poverty and unemployment and then in 1902, when Jim was only 14 years old, his father died. As the eldest son, it fell to him and his mother to keep the family together.

Jim was forced to drop out of school to care for his mother and his younger siblings. At the age of 19, he borrowed $100 from a friend and started American Messenger Service, a bicycle delivery company. The company's motto was "Best Service, Lowest Rates." He employed his brothers and friends as delivery boys. The company grew, and, a few years later, it changed its name to United Parcel Service and expanded its operations beyond Seattle and the rest, as they say, is history.

In 1966, along with his brothers, George and Henry, and his sister Marguerite, Jim Casey founded Casey Family Programs. Its object is to help children who are unable to live with both parents, to give them stability, and help them grow up to be responsible adults. Jim Casey always remembered the struggles of his teenaged years, growing up without a father on the rough streets of Seattle. He used his influence and his wealth to give other children the chance at a better future.

Nevada owes a great debt to Casey Family Programs. The organization has worked for many years with Nevada's Department of Health and Human Services, Clark County Family Services, Washoe County Family Services, Indian tribes, and other State and local agencies to improve the lives of thousands of children and families in our State.

The activities of Casey Family Programs in Nevada fall into three categories: first, strategic counseling, providing expertise and support to child welfare agencies in bettering the lives of children in foster care; second, public policy, building public support and political will to improve the child welfare and foster care system; and third, providing direct services such as high quality foster care, kinship care, and transition services for children and families.

I would like to share a few some specific examples of the programs that it has carried out in our State. I feel this is so important as we conclude our discussions on the State budget; it is partners like Casey Family Programs that help us bridge the gap in many ways. In the areas of helping child welfare tailor responses to meet family needs Casey Family Programs has supported our statewide "Differential Response" program aimed at providing helpful services to families as an alternative to child removal. Working to improve Indian child welfare through The Fostering Connections to Success and Increasing Adoptions Act of 2008 gives American Indian tribes the same access to federal child welfare funding that states currently receive. Casey Family Programs is working to help tribes use these additional federal dollars in the most efficient and effective ways possible to better support and serve children in foster care. Casey Family Programs facilitated a statewide workgroup that made recommendations to a subcommittee of the Nevada Legislature to reduce the number of children in foster care, a committee I was pleased to chair. Finally, Casey Family Programs supports the redesign of Clark County's Independent Living Program that provides youth aging out of foster care with resources and support related to education, employment and housing. It also supports the development of a group of young adults formerly in foster care that recommends changes in policies and laws to improve the foster care system. These are only a few of the examples of the great work the Casey Family Programs have done in our State and across the country. It is my honor to have them here with us today and to commend them on their work and investment in our children and families.

Resolution adopted.

Senator Horsford moved that all necessary rules be suspended and that Senate Concurrent Resolution No. 13 be immediately transmitted to the Assembly.

Motion carried unanimously.

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 Finance, to which was re-referred Senate Bill No. 231, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Revenue, to which was referred Assembly Bill No. 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 26, 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. 489, 530, 531, 562.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 148, 247, 528, 529.

SUSAN FURLONG
Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Hardy moved to reconsider the vote whereby Assembly Bill No. 304 was lost.

Motion carried.

Senator Wiener moved that Senate Bill No. 208; Senate Joint Resolution No. 15; Assembly Bills Nos. 260, 299, 301, 410, be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Halseth.

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

Thank you, Mr. President. On May 20 and May 22, I rolled Assembly Bill No. 282 two times waiting for an amendment, which we received and passed unanimously. However, we waited four days, not including today, rolling Assembly Bill No. 410 for a possible amendment, and have yet to receive that. We are wondering why I was forced to put a bill on General File without an amendment while the majority party is continuing to roll a Republican bill without an amendment.

Motion carried on a division of the house

. Remarks by Senator Horsford.

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

Thank you, Mr. President. I would like to respond to my colleague from Clark District No. 9. To be clear, the bills that have been rolled are not for partisan purposes. These are bills that were rolled that are on that list from the majority party in the other house as well. This is not about partisanship. We are in a deadline process. We do not have all of the technical amendments. We are trying to consider those bills that are ready to be considered. As every bill is ready, we will bring it up for a "yes" or "no" vote.

Senator Lee moved that Assembly Bill No. 265 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Halseth moved that Assembly Bill No. 198 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 148.

Senator Wiener moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Assembly Bill No. 247.

Senator Wiener moved that the bill be referred to the Committee on Transportation.

Motion carried.

Assembly Bill No. 489.

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

Motion carried.

Assembly Bill No. 528.

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

Motion carried.

Assembly Bill No. 529.

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

Motion carried.

Assembly Bill No. 530.

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

Motion carried.

Assembly Bill No. 531.

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

Motion carried.

Assembly Bill No. 562.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 98.

Bill read second time and ordered to third reading.

Assembly Bill No. 199.

Bill read second time.

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

Amendment No. 658.

"SUMMARY—Revises provisions governing the practice of pharmacy. (BDR 54-875)"

"AN ACT relating to the practice of pharmacy; revising provisions governing the authority of a registered pharmacist to collaborate with a practitioner for the implementation, monitoring and modification of drug

therapy; authorizing the State Board of Pharmacy to establish regulations relating to collaborative pharmacy practice; **revising provisions governing the use of the letters "Rx" and "RX" by certain persons; revising provisions relating to the authority of a registered pharmacist to possess and administer controlled substances and dangerous drugs under certain circumstances;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a registered pharmacist to collaborate with a practitioner to engage in the implementation and modification of drug therapy for a patient at a licensed medical facility or licensed pharmacy. (NRS 639.0124) **Section 1** of this bill prescribes requirements for written guidelines and protocols which must be developed by a pharmacist who collaborates with a practitioner and requires those guidelines and protocols to be approved by the State Board of Pharmacy. **Section 1** also authorizes the written guidelines and protocols to set forth provisions for a pharmacist to implement, monitor and modify the drug therapy of a patient in **a medical facility or** a setting ~~[other than]~~ **that is affiliated with** a licensed medical facility **.** ~~[or licensed pharmacy.]~~ **Sections 10.3 and 10.7 of this bill revise the authority of a pharmacist to possess and administer controlled substances and dangerous drugs under certain circumstances for the care of a patient in accordance with the written guidelines and protocols developed pursuant to section 1.**

Existing law prohibits a person operating a business from using the letters "Rx" or "RX" if the person does not have a license from the Board. (NRS 639.230) Section 10 of this bill authorizes persons who are not subject to the laws governing the practice of pharmacy to use those letters if the person obtains approval from the Board.

A person who violates any provision of chapter 639 of NRS governing pharmacists and pharmacies, including any provision of this bill, is guilty of a misdemeanor. (NRS 639.310)

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Written guidelines and protocols developed by a registered pharmacist in collaboration with a practitioner which authorize the implementation, monitoring and modification of drug therapy:

(a) May authorize a pharmacist to order and use the findings of laboratory tests and examinations.

(b) May provide for implementation, monitoring and modification of drug therapy for a patient receiving care ~~[in]~~ :

(1) In a licensed medical facility ; or ~~[, if]~~

(2) If developed to ensure continuity of care for a patient, in any setting ~~[outside]~~ that is affiliated with a medical facility where the patient is

receiving care. A pharmacist who modifies a drug therapy of a patient receiving care in a setting that is affiliated with a medical facility shall, within 72 hours after implementing or modifying the drug therapy, provide written notice of the implementation or modification of the drug therapy to the collaborating practitioner or enter the appropriate information concerning the drug therapy in an electronic patient record system shared by the pharmacist and the collaborating practitioner.

(c) Must state the conditions under which a prescription of a practitioner relating to the drug therapy of a patient may be changed by the pharmacist without a subsequent prescription from the practitioner.

(d) Must be approved by the Board.

2. The Board may adopt regulations which:

(a) Prescribe additional requirements for written guidelines and protocols developed pursuant to this section; and

(b) Set forth the process for obtaining the approval of the Board of such written guidelines and protocols.

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. NRS 639.0124 is hereby amended to read as follows:

639.0124 "Practice of pharmacy" includes, but is not limited to, the:

1. Performance or supervision of activities associated with manufacturing, compounding, labeling, dispensing and distributing of a drug, including the receipt, handling and storage of prescriptions and other confidential information relating to patients.

2. Interpretation and evaluation of prescriptions or orders for medicine.

3. Participation in drug evaluation and drug research.

4. Advising of the therapeutic value, reaction, drug interaction, hazard and use of a drug.

5. Selection of the source, storage and distribution of a drug.

6. Maintenance of proper documentation of the source, storage and distribution of a drug.

7. Interpretation of clinical data contained in a person's record of medication.

8. Development of written guidelines and protocols in collaboration with a practitioner which are intended for a patient in a licensed medical facility ***or in a setting*** ~~*[outside]*~~ ***that is affiliated with a medical facility where the patient is receiving care*** and ***which*** authorize the implementation, monitoring and modification of drug therapy. The written guidelines and protocols ~~[may authorize a pharmacist to order and use the findings of laboratory tests and examinations.]~~ ***must comply with section 1 of this act.***

9. Implementation and modification of drug therapy in accordance with the authorization of the prescribing practitioner for a patient in a pharmacy in which drugs, controlled substances, poisons, medicines or chemicals are sold at retail.

➥The term does not include the changing of a prescription by a pharmacist or practitioner without the consent of the prescribing practitioner, except as otherwise provided in NRS 639.2583.

Sec. 10. NRS 639.230 is hereby amended to read as follows:

639.230 1. A person operating a business in this State shall not use ~~[the letters "Rx" or "RX" or]~~ the word "drug" or "drugs," "prescription" or "pharmacy," or similar words or words of similar import, without first having secured a license from the Board. ***A person operating a business in this State which is not otherwise subject to the provisions of this chapter shall not use the letters "Rx" or "RX" without the approval of the Board. The Board must not unreasonably deny approval of the use of the letters "Rx" or "RX" by any person but may deny approval upon a determination that:***

(a) The person is subject to the provisions of this chapter but has not secured a license from the Board; or

(b) The use of the letters "Rx" or "RX" by the person is confusing or misleading to or threatens the health or safety of the residents of this State.

2. Each license must be issued to a specific person and for a specific location and is not transferable. The original license must be displayed on the licensed premises as provided in NRS 639.150. The original license and the fee required for reissuance of a license must be submitted to the Board before the reissuance of the license.

3. If the owner of a pharmacy is a partnership or corporation, any change of partners or corporate officers must be reported to the Board at such a time as is required by a regulation of the Board.

4. Except as otherwise provided in subsection 6, in addition to the requirements for renewal set forth in NRS 639.180, every person holding a license to operate a pharmacy must satisfy the Board that the pharmacy is conducted according to law.

5. Any violation of any of the provisions of this chapter by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.

6. The provisions of this section do not prohibit ~~[a]~~ ***:***

(a) A Canadian pharmacy which is licensed by the Board and which has been recommended by the Board pursuant to subsection 4 of NRS 639.2328 for inclusion on the Internet website established and maintained pursuant to subsection 9 of NRS 223.560 from providing prescription drugs through mail order service to residents of Nevada in the manner set forth in NRS 639.2328 to 639.23286, inclusive ~~[.]~~ ***; or***

(b) A registered pharmacist or practitioner from collaborating in the implementation, monitoring and modification of drug therapy pursuant to guidelines and protocols approved by the Board.

Sec. 10.3. **NRS 453.026 is hereby amended to read as follows:**

453.026 "Agent" means a pharmacist ~~[,]~~ ***who cares for a patient of a prescribing practitioner in a medical facility or in a setting that is affiliated with a medical facility where the patient is receiving care in accordance with written guidelines and protocols developed and approved pursuant to section 1 of this act, a*** licensed practical nurse or registered nurse who cares for a patient of a prescribing practitioner in a medical facility or an authorized person who acts on behalf of or at the direction of and is employed by a manufacturer, distributor, dispenser or prescribing practitioner. The term does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

Sec. 10.7. **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 of Immunization Practices" recommended and approved by the United States Public Health Service Advisory Committee on Immunization Practices.

19. ***A registered pharmacist pursuant to written guidelines and protocols developed and approved pursuant to section 1 of this act.***

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. 11. This act becomes effective upon passage and approval for the purpose of adopting regulations and 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. 658 to Assembly Bill No. 199 revises the provisions that allow a pharmacist to collaborate with a physician on the implementation, monitoring and modification of drug therapy.

The amendment also authorizes a person operating a business which is not subject to regulation by the State Board of Pharmacy to use the letters "Rx" with the Board's permission as long as the use of the letters is not confusing or misleading and does not pose a threat to public health or safety.

I brought this amendment to our Committee because during the last interim it was brought to my attention by a constituent who owns "Rxealty" in Las Vegas that he was ordered to cease and desist by the Pharmacy Board because he used the designation "Rx" in realty. It did not seem right to me. We sent letters to the Pharmacy Board. They agreed that it was a broad interpretation of "pharmacy" so they pulled back and suggested I approach this with an adjustment to the law this Session. We have the "Rxehab Lounge" in Las Vegas and other entities that use the term "Rx" in their name. This is not a confusing term. It is not one that would cause a person to think they were going to the establishment to get a prescription filled.

The Pharmacy Board is okay with this amendment as is the prime sponsor of the bill in the Assembly.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 223.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 694.

"SUMMARY—Makes various changes concerning the execution on property of a judgment debtor or defendant. (BDR 2-989)"

"AN ACT relating to civil actions; providing that a certain amount of money held in a personal bank account that is likely to be exempt from execution is not subject to a writ of execution or garnishment ~~[.]~~ **except in certain circumstances;** providing a procedure to execute on property held in a safe-deposit box; revising the procedure for claiming an exemption from execution on certain property; making various other changes to provisions governing writs of execution, attachment and garnishment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law allows a judgment creditor to obtain a writ of execution, attachment or garnishment to levy on the property of a judgment debtor or defendant in certain circumstances. (Chapters 21 and 31 of NRS) Certain property, however, is exempt from execution and therefore cannot be the subject of such a writ. (NRS 21.090) **Section 3** of this bill provides that a certain amount of money held in the personal bank account of a judgment debtor which is likely to be exempt from execution is not subject to a writ of execution or garnishment and must remain accessible to the judgment debtor ~~[.]~~ **except in certain circumstances.** **Section 3** further provides immunity from liability to a financial institution which makes an incorrect determination concerning whether money is subject to execution. **Section 4** of this bill provides that notwithstanding the provisions of **section 3**, if a judgment debtor has personal bank accounts in more than one financial institution, the writ may attach to all money in those accounts. The judgment debtor then may claim any exemption that may apply.

Section 5 of this bill provides that a separate writ must be issued to levy on property in a safe-deposit box and provides a procedure for executing on such a writ.

Section 5.5 of this bill revises the form for a writ of execution issued on a judgment for the recovery of money to include notice on the form to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Section 7 of this bill provides additional exemptions from execution which are provided by Nevada law.

Section 8 of this bill revises the procedures for claiming an exemption from execution, and for objecting to such a claim of exemption. **Sections 6 and 10** of this bill revise the notice that is provided to a judgment debtor or defendant when a writ of execution, attachment or garnishment is levied on the property of the judgment debtor or defendant so that the procedures listed in the notice reflect the changes made in **section 8**. **Sections 6 and 10** further revise the notice to provide additional information concerning the claiming of exemptions.

Sections 2 and 9 of this bill clarify that a constable has authority to perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff with respect to a writ of execution, garnishment or attachment.

Section 11 of this bill revises the interrogatories that are used with a writ of execution, attachment or garnishment to clarify the manner of determining the earnings which must be identified as subject to execution and to provide specific questions for a bank to conform to the new provisions in **section 3**.

Section 12 of this bill requires the judgment creditor who caused a writ of attachment to issue to prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days providing information about the debt and the rights of the debtor. The accounting must also be submitted with each subsequent application for a writ filed by the judgment creditor concerning the same judgment.

Section 13 of this bill provides that the fee for receiving, removing and taking care of property on execution, attachment or court order collected by a constable is not payable in advance.

Section 14 of this bill provides that certain unemployment benefits are exempt from execution regardless of whether they are mingled with other money.

Section 15 of this bill repeals NRS 21.114 concerning the submission of sureties to the jurisdiction of the court because the requirement for an undertaking requiring a surety is removed in **section 8**.

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

Section 1. Chapter 21 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of execution or garnishment.***

Sec. 3. ***1. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and money has been deposited into the account electronically within the immediately preceding 45 days from the date on which the writ was served which is reasonably identifiable as exempt from execution, notwithstanding any other deposits of money into the account, $2,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to***

the judgment debtor. For the purposes of this section, money is reasonably identifiable as exempt from execution if the money is deposited in the bank account by the United States Department of the Treasury, including, without limitation, money deposited as:

(a) Benefits provided pursuant to the Social Security Act which are exempt from execution pursuant to 42 U.S.C. §§ 407 and 1383, including, without limitation, retirement and survivors' benefits, supplemental security income benefits, disability insurance benefits and child support payments that are processed pursuant to Part D of Title IV of the Social Security Act;

(b) Veterans' benefits which are exempt from execution pursuant to 38 U.S.C. § 5301;

(c) Annuities payable to retired railroad employees which are exempt from execution pursuant to 45 U.S.C. § 231m;

(d) Benefits provided for retirement or disability of federal employees which are exempt from execution pursuant to 5 U.S.C. §§ 8346 and 8470;

(e) Annuities payable to retired members of the Armed Forces of the United States and to any surviving spouse or children of such members which are exempt from execution pursuant to 10 U.S.C. §§ 1440 and 1450;

(f) Payments and allowances to members of the Armed Forces of the United States which are exempt from execution pursuant to 37 U.S.C. § 701;

(g) Federal student loan payments which are exempt from execution pursuant to 20 U.S.C. § 1095a;

(h) Wages due or accruing to merchant seamen which are exempt from execution pursuant to 46 U.S.C. § 11109;

(i) Compensation or benefits due or payable to longshore and harbor workers which are exempt from execution pursuant to 33 U.S.C. § 916;

(j) Annuities and benefits for retirement and disability of members of the foreign service which are exempt from execution pursuant to 22 U.S.C. § 4060;

(k) Compensation for injury, death or detention of employees of contractors with the United States outside the United States which is exempt from execution pursuant to 42 U.S.C. § 1717;

(l) Assistance for a disaster from the Federal Emergency Management Agency which is exempt from execution pursuant to 44 C.F.R. § 206.110;

(m) Black lung benefits paid to a miner or a miner's surviving spouse or children pursuant to 30 U.S.C. § 922 or 931 which are exempt from execution; and

(n) Benefits provided pursuant to any other federal law.

2. If a writ of execution or garnishment is levied on the personal bank account of the judgment debtor and the provisions of subsection 1 do not apply, $1,000 or the entire amount in the account, whichever is less, is not subject to execution and must remain accessible to the judgment debtor ~~***.***~~ ***]***

,unless the writ of execution or garnishment is for the recovery of money owed for the support of any person.

3. If a judgment debtor has more than one personal bank account with the bank to which a writ is issued, the amount that is not subject to execution must not in the aggregate exceed the amount specified in subsection 1 or 2, as applicable.

4. A judgment debtor may apply to a court to claim an exemption for any amount subject to a writ levied on a personal bank account which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2.

5. If money in the personal account of the judgment debtor which exceeds the amount that is not subject to execution pursuant to subsection 1 or 2 includes exempt and nonexempt money, the judgment debtor may claim an exemption for the exempt money in the manner set forth in NRS 21.112. To determine whether such money in the account is exempt, the judgment creditor must use the method of accounting which applies the standard that the first money deposited in the account is the first money withdrawn from the account. The court may require a judgment debtor to provide statements from the bank which include all deposits into and withdrawals from the account for the immediately preceding 90 days.

6. A financial institution which makes a reasonable effort to determine whether money in the account of a judgment debtor is subject to execution for the purposes of this section is immune from civil liability for any act or omission with respect to that determination, including, without limitation, when the financial institution makes an incorrect determination after applying commercially reasonable methods for determining whether money in an account is exempt because the source of the money was not clearly identifiable or because the financial institution inadvertently misidentified the source of the money. If a court determines that a financial institution failed to identify that money in an account was not subject to execution pursuant to this section, the financial institution must adjust its actions with respect to a writ of execution as soon as possible but may not be held liable for damages.

7. Nothing in this section requires a financial institution to revise its determination about whether money is exempt, except by an order of a court.

Sec. 4. ***1. Notwithstanding the provisions of section 3 of this act, if a judgment debtor has a personal bank account in more than one financial institution, the judgment creditor is entitled to an order from the court to be issued with the writ of execution or garnishment which states that all money held in all such accounts of the judgment debtor that are identified in the application for the order are subject to the writ.***

2. A judgment creditor may apply to the court for an order pursuant to subsection 1 by submitting a signed affidavit which identifies each financial institution in which the judgment debtor has a personal account.

3. A judgment debtor may claim an exemption for any exempt money in the account to which the writ attaches in the manner set forth in NRS 21.112.

Sec. 5. ***1. If a writ of execution or garnishment is levied on property in a safe-deposit box maintained at a financial institution, a separate writ must be issued from any writ that is issued to levy on an account of the judgment debtor with the financial institution. Notice of the writ must be served personally on the financial institution and promptly thereafter on any third person who is named on the safe-deposit box.***

2. During the period in which the writ of execution or garnishment is in effect, the financial institution must not allow the contents of the safe-deposit box to be removed other than as directed by the sheriff or by court order.

3. The sheriff may allow the person in whose name the safe-deposit box is held to open the safe-deposit box so that the contents may be removed pursuant to the levy. The financial institution may refuse to allow the forcible opening of the safe-deposit box to allow the removal of the property levied upon unless the judgment creditor pays in advance the cost of forcibly opening the safe-deposit box and of repairing any damage caused thereby.

Sec. 5.5. **NRS 21.025 is hereby amended to read as follows:**

21.025 A writ of execution issued on a judgment for the recovery of money must be substantially in the following form:

(Title of the Court)

(Number and abbreviated title of the case)

EXECUTION

THE PEOPLE OF THE STATE OF NEVADA:

To the sheriff of ..... County.

Greetings:

To FINANCIAL INSTITUTIONS: This judgment is for the recovery of money for the support of a person.

On ...(month)...(day)...(year), a judgment was entered by the above-entitled court in the above-entitled action in favor of ..... as judgment creditor and against ..... as judgment debtor for:

$..... principal,

$..... attorney's fees,

$..... interest, and

$..... costs, making a total amount of

$..... the judgment as entered, and

WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed herein, it appears that further sums have accrued since the entry of judgment, to wit:

$..... accrued interest, and

$..... accrued costs, together with $.... fee, for the issuance of this writ, making a total of

$..... as accrued costs, accrued interest and fees.

Credit must be given for payments and partial satisfactions in the amount of

$.....

which is to be first credited against the total accrued costs and accrued interest, with any excess credited against the judgment as entered, leaving a net balance of

$.....

actually due on the date of the issuance of this writ, of which

$.....

bears interest at .... percent per annum, in the amount of $.... per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF OF ..... COUNTY, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any workweek, 75 percent of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what you have done.

Dated: This ..... day of the month of ..... of the year .....

....., Clerk.

By....., Deputy Clerk.

Sec. 6. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. The judgment creditor has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the

federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you

may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ***, the garnishee*** and the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless ~~[you or the judgment creditor files a motion]~~ ***the sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing to determine the issue of exemption must be filed within ~~[10]~~ ***8 judicial*** days after the ~~[affidavit claiming]~~ ***claim of*** exemption is ~~[filed.]~~ ***served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing to determine whether the property or money is exempt must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for the hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 7. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by the judgment debtor.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of the judgment debtor and his or her family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, the miner's or prospector's cars, implements and appliances necessary for carrying on any mining operations and the mining claim actually worked by the miner or prospector, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself or herself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by the judgment debtor.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his or her primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by the judgment debtor or the judgment debtor's dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without

limitation, the judgment debtor's equity in any property, money, stocks, bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in NRS 163.4145 if the interest has not been distributed;

(2) A remainder interest in the trust as defined in NRS 163.416 if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(4) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been distributed or transferred;

(5) A power listed in NRS 163.5553 that is held by a trust protector as defined in NRS 163.5547 or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in NRS 163.4165 regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in NRS 163.4185 if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in NRS 163.4185 if the interest has not been distributed; and

(3) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(ee) Proceeds received from a private disability insurance plan.

(ff) Money in a trust fund for funeral or burial services pursuant to NRS 689.700.

(gg) Compensation that was payable or paid pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS as provided in NRS 616C.205.

(hh) Unemployment compensation benefits received pursuant to NRS 612.710.

(ii) Benefits or refunds payable or paid from the Public Employees' Retirement System pursuant to NRS 286.670.

(jj) Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270.

(kk) Public assistance provided through the Department of Health and Human Services pursuant to NRS 422.291.

(ll) Child welfare assistance provided pursuant to NRS 432.036.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 8. NRS 21.112 is hereby amended to read as follows:

21.112 1. In order to claim exemption of any property levied on ~~[,]~~ ***pursuant to this section,*** the judgment debtor must, within ~~[8]~~ ***20 calendar*** days after the notice ~~[prescribed in NRS 21.075 is mailed,]~~ ***of a writ of execution or garnishment is served on the judgment debtor by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on,*** serve on the sheriff ***, the garnishee*** and ***the*** judgment creditor and file with the clerk of the court issuing the writ of execution ~~[an affidavit setting out]~~ the judgment debtor's claim of exemption ~~[.]~~ ***which is executed in the manner set forth in NRS 53.045. If the property that is levied on is the earnings of the judgment debtor, the judgment debtor must file the claim of exemption pursuant to this subsection within 20 calendar days after the date of each withholding of the judgment debtor's earnings.***

2. The clerk of the court shall provide the form for the ~~[affidavit.~~

~~2. When the affidavit is served, the sheriff shall release the property if the judgment creditor, within 5 days after written demand by the sheriff:~~

~~(a) Fails to give the sheriff an undertaking executed by two good and sufficient sureties which:~~

~~(1) Is in a sum equal to double the value of the property levied on; and~~

~~(2) Indemnifies the judgment debtor against loss, liability, damages, costs and attorney's fees by reason of the taking, withholding or sale of the property by the sheriff; or~~

~~(b) Fails to file a motion for a hearing to determine whether the property or money is exempt.~~

~~➥ The clerk of the court shall provide the form for the motion.~~

~~3. At the time of giving the sheriff the undertaking provided for in subsection 2, the judgment creditor shall give notice of the undertaking to the judgment debtor.~~

~~4.]~~ ***claim of exemption and shall further provide with the form instructions concerning the manner in which to claim an exemption, a checklist and description of the most commonly claimed exemptions, instructions concerning the manner in which the property must be released***

to the judgment debtor if no objection to the claim of exemption is filed and an order to be used by the court to grant or deny an exemption. No fee may be charged for providing such a form or for filing the form with the court.

3. An objection to the claim of exemption and notice for a hearing must be filed with the court within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee. The judgment creditor shall also serve notice of the date of the hearing on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.

4. If an objection to the claim of exemption and notice for a hearing are not filed within 8 judicial days after the claim of exemption has been served, the property of the judgment debtor must be released by the person who has control or possession over the property in accordance with the instructions set forth on the form for the claim of exemption provided pursuant to subsection 2 within 9 judicial days after the claim of exemption has been served.

5. The sheriff is not liable to the judgment debtor for damages by reason of the taking, withholding or sale of any property ~~[~~,~~]~~ where ~~[~~:

~~(a) No affidavit claiming~~] ***a claim of*** exemption is ***not*** served on the sheriff**.** ~~[~~, ~~or~~

~~(b) An affidavit claiming exemption is served on the sheriff, but the sheriff fails to release the property in accordance with this section.~~

~~5.~~] ***6.*** Unless the court continues the hearing for good cause shown, the hearing ***on an objection to a claim of exemption*** to determine whether the property or money is exempt must be held within ~~[~~10~~]~~ ***7 judicial*** days after the ~~[~~motion~~]~~ ***objection to the claim and notice*** for ~~[~~the~~]~~ ***a*** hearing is filed.

~~[6. The judgment creditor shall give the judgment debtor at least 5 days' notice of the hearing.]~~ ***The judgment debtor has the burden to prove that he or she is entitled to the claimed exemption at such a hearing. After determining whether the judgment debtor is entitled to an exemption, the court shall mail a copy of the order to the judgment debtor, the judgment creditor, any other named party, the sheriff and any garnishee.***

7. If the sheriff or garnishee does not receive a copy of a claim of exemption from the judgment debtor within 25 calendar days after the property is levied on, the garnishee must release the property to the sheriff or, if the property is held by the sheriff, the sheriff must release the property to the judgment creditor.

8. At any time after:

(a) An exemption is claimed pursuant to this section, the judgment debtor may withdraw the claim of exemption and direct that the property be released to the judgment creditor.

(b) An objection to a claim of exemption is filed pursuant to this section, the judgment creditor may withdraw the objection and direct that the property be released to the judgment debtor.

9. The provisions of this section do not limit or prohibit any other remedy provided by law.

10. In addition to any other procedure or remedy authorized by law, a person other than the judgment debtor whose property is the subject of a writ of execution or garnishment may follow the procedures set forth in this section for claiming an exemption to have the property released.

11. A judgment creditor shall not require a judgment debtor to waive any exemption which the judgment debtor is entitled to claim.

Sec. 9. Chapter 31 of NRS is hereby amended by adding thereto a new section to read as follows:

A constable may perform any of the duties assigned to a sheriff and has all of the authority granted to a sheriff pursuant to this chapter with respect to a writ of attachment.

Sec. 10. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe the plaintiff money. The plaintiff has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or the landlord's successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue

Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. Regardless of whether a trust contains a spendthrift provision:

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

19. A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

20. Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

21. Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

22. Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

23. Payments received as restitution for a criminal act.

24. Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

25. A tax refund received from the earned income credit provided by federal law or a similar state law.

26. Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons). ***If you do not wish to consult an attorney or receive legal services from an organization that provides assistance to persons who qualify, you may obtain the form to be used to claim an exemption from the clerk of the court.***

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk ~~[a notarized affidavit claiming the]~~ ***an executed claim of*** exemption. A copy of the ~~[affidavit]~~ ***claim of exemption*** must be served upon the sheriff ***, the garnishee*** and the judgment creditor within ~~[8]~~ ***20 calendar*** days after the notice of execution ***or garnishment*** is ~~[mailed.]~~ ***served on you by mail pursuant to NRS 21.076 which identifies the specific property that is being levied on.*** The property

must be ~~[returned to you]~~ ***released by the garnishee or the sheriff*** within ~~[5]~~ ***9 judicial*** days after you ~~[file]~~ ***serve*** the ~~[affidavit]~~ ***claim of exemption upon the sheriff, garnishee and judgment creditor,*** unless the ~~[judgment creditor files a motion]~~ ***sheriff or garnishee receives a copy of an objection to the claim of exemption and a notice*** for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. ***The objection to the claim of exemption and notice for the hearing to determine the issue of exemption must be filed within 8 judicial days after the claim of exemption is served on the judgment creditor by mail or in person and served on the judgment debtor, the sheriff and any garnishee not less than 5 judicial days before the date set for the hearing.*** The hearing must be held within ~~[10]~~ ***7 judicial*** days after the ~~[motion]~~ ***objection to the claim of exemption and notice*** for a hearing is filed. ***You may be able to have your property released more quickly if you mail to the judgment creditor or the attorney of the judgment creditor written proof that the property is exempt. Such proof may include, without limitation, a letter from the government, an annual statement from a pension fund, receipts for payment, copies of checks, records from financial institutions or any other document which demonstrates that the money in your account is exempt.***

IF YOU DO NOT FILE THE ~~[AFFIDAVIT]~~ ***EXECUTED CLAIM OF EXEMPTION*** WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Sec. 11. NRS 31.290 is hereby amended to read as follows:

31.290 1. The interrogatories to ***be submitted with any writ of execution, attachment or garnishment to*** the garnishee may be in substance as follows:

INTERROGATORIES

Are you in any manner indebted to the defendants .....
.....
....., or either of them, either in property or money, and is the debt now due? If not due, when is the debt to become due? State fully all particulars.

Answer: .....
.....

Are you an employer of one or all of the defendants? If so, state the length of your pay period and the amount ***of disposable earnings, as defined in NRS 31.295, that*** each defendant presently earns during a pay period. ***State the minimum amount of disposable earnings that is exempt from this garnishment, which is the federal minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), in effect at the time the earnings are payable multiplied by 50 for each week of the pay period, after deducting any amount required by law to be withheld.***

Calculate the attachable amount as follows:

(*Check one of the following) The employee is paid:*

[A] Weekly: __ [B] Biweekly: __ [C] Semimonthly: __ [D] Monthly: __

(1) Gross Earnings $ _____

(2) Deductions required by law (not including child support) $ _____

(3) Disposable Earnings [Subtract line 2 from line 1] $ _____

(4) Federal Minimum Wage $ _____

(5) Multiply line 4 by 50 $ _____

(6) Complete the following directions in accordance with the letter selected above:

[A] Multiply line 5 by 1 $ _____

[B] Multiply line 5 by 2 $ _____

[C] Multiply line 5 by 52 and then divide by 24 $ _____

[D] Multiply line 5 by 52 and then divide by 12 $ _____

(7) Subtract line 6 from line 3 $ _____

This is the attachable earnings. This amount must not exceed 25% of the disposable earnings from line 3.

Answer: .....
.....

Did you have in your possession, in your charge or under your control, on the date the writ of garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or choses in action of the defendants, or either of them, or in which .....is interested? If so, state its value, and state fully all particulars.

Answer: .....
.....

Do you know of any debts owing to the defendants, whether due or not due, or any money, property, effects, goods, chattels, rights, credits or choses in action, belonging to ..... or in which .....is interested, and now in the possession or under the control of others? If so, state particulars.

Answer: .....

.....

Are you a financial institution with a personal account held by one or all of the defendants? If so, state the account number and the amount of money in the account which is subject to garnishment. As set forth in section 3 of this act, $2,000 or the entire amount in the account, whichever is less, is not subject to garnishment if the financial institution reasonably identifies that an electronic deposit of money has been made into the account within the immediately preceding 45 days which is exempt from execution, including, without limitation, payments of money described in section 3 of this act or, if no such deposit has been made, $1,000 or the entire amount in the account, whichever is less, is not subject to garnishment. The amount which is not subject to garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount that is not subject to garnishment.

Answer:**.....**

.....

State your correct name and address, or the name and address of your attorney upon whom written notice of further proceedings in this action may be served.

Answer: .....

.....

.....

Garnishee

I (insert the name of the garnishee), ~~[do solemnly swear (or affirm)]~~ ***declare under penalty of perjury*** that the answers to the foregoing interrogatories by me subscribed are true ~~[.]~~ ***and correct***.

.....

(Signature of garnishee)

~~[SUBSCRIBED and SWORN to before me this .... day of the month of .... of the year ....]~~

2. The garnishee shall answer the interrogatories in writing upon oath or affirmation and submit the answers to the sheriff within the time required by the writ. ***The garnishee shall submit his or her answers to the judgment debtor within the same time***. If the garnishee fails to do so, the garnishee shall be deemed in default.

Sec. 12. NRS 31.296 is hereby amended to read as follows:

31.296 1. Except as otherwise provided in subsection 3, if the garnishee indicates in the garnishee's answer to garnishee interrogatories that the garnishee is the employer of the defendant, the writ of garnishment

served on the garnishee shall be deemed to continue for 120 days or until the amount demanded in the writ is satisfied, whichever occurs earlier.

2. In addition to the fee set forth in NRS 31.270, a garnishee is entitled to a fee from the plaintiff of $3 per pay period, not to exceed $12 per month, for each withholding made of the defendant's earnings. This subsection does not apply to the first pay period in which the defendant's earnings are garnished.

3. If the defendant's employment by the garnishee is terminated before the writ of garnishment is satisfied, the garnishee:

(a) Is liable only for the amount of earned but unpaid, disposable earnings that are subject to garnishment.

(b) Shall provide the plaintiff or the plaintiff's attorney with the last known address of the defendant and the name of any new employer of the defendant, if known by the garnishee.

4. The judgment creditor who caused the writ of attachment to issue pursuant to NRS 31.013 shall prepare an accounting and provide a report to the judgment debtor, the sheriff and each garnishee every 120 days which sets forth, without limitation, the amount owed by the judgment debtor, the costs and fees allowed pursuant to NRS 18.160 and any accrued interest and costs on the judgment. The report must advise the judgment debtor of the judgment debtor's right to request a hearing pursuant to NRS 18.110 to dispute any accrued interest, fee or other charge. The judgment creditor must submit this accounting with each subsequent application for writ made by the judgment creditor concerning the same debt.

Sec. 13. NRS 258.230 is hereby amended to read as follows:

258.230 Except with respect to the ~~[~~fee~~]~~ ***fees*** described in ~~[~~paragraph~~]~~ ***paragraphs (a) and*** (d) of subsection 2 of NRS 258.125, all fees prescribed in this chapter shall be payable in advance, if demanded. If a constable shall not have received any or all of his or her fees, which may be due the constable for services rendered by him or her in any suit or proceedings, the constable may have execution therefor in his or her own name against the party or parties from whom they are due, to be issued from the court where the action is pending, upon the order of the justice of the peace or court upon affidavit filed.

Sec. 14. NRS 612.710 is hereby amended to read as follows:

612.710 Except as otherwise provided in NRS 31A.150:

1. Any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under this chapter is void, except for a voluntary assignment of benefits to satisfy an obligation to pay support for a child.

2. Benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt. Benefits received by any person ~~[~~~~, if they are not mingled with other money of the recipient,~~~~]~~ are exempt from any remedy for the collection of all debts, except debts incurred for

necessaries furnished to the person or the person's spouse or dependents during the time when the person was unemployed.

3. Any other waiver of any exemption provided for in this section is void.

Sec. 15. NRS 21.114 is hereby repealed.

TEXT OF REPEALED SECTION

21.114 Sureties: Submission to jurisdiction of court; exceptions to sufficiency and justification.

1. By entering into any undertaking provided for in NRS 21.112, the sureties thereunder submit themselves to the jurisdiction of the court and irrevocably appoint the clerk of the court as agent upon whom any papers affecting liability on the undertaking may be served. Liability on such undertaking may be enforced on motion to the court without the necessity of an independent action. The motion and such reasonable notice of the motion as the court prescribes may be served on the clerk of the court, who shall forthwith mail copies to the sureties if their addresses are known.

2. Exceptions to the sufficiency of the sureties and their justification may be had and taken in the same manner as upon an undertaking given in other cases under titles 2 and 3 of NRS. If they, or others in their place, fail to justify at the time and place appointed, the sheriff must release the property; but if no exception is taken within 5 days after notice of receipt of the undertaking, the judgment debtor shall be deemed to have waived any and all objections to the sufficiency of the sureties.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment clarifies that the $1,000 exemption from a writ of execution does not apply to certain court orders, such as those for support of any person including, for example, child support. To that end, the amendment also revises the form for a writ of execution to include notice to financial institutions of whether the judgment is for the recovery of money for the support of a person.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 240.

Bill read second time.

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

Amendment No. 764.

"SUMMARY—Revises provisions governing contracts for services entered into by certain public employers. (BDR 23-149)"

"AN ACT relating to public agencies; revising the restrictions on contracts with or employment of former or current state employees by a state agency; **providing certain exceptions;** requiring state agencies to report all contracts for services as part of the budget process; requiring that a contractor with a

state agency be in active and good standing with the Secretary of State; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law restricts the employment of consultants by public agencies and requires the approval of certain contracts with consultants by the Interim Finance Committee. (NRS 284.1729) **Section 1** of this bill expands those restrictions to apply to all contracts to provide services to state agencies, revises the exceptions to the restrictions and requires approval of the State Board of Examiners rather than the Interim Finance Committee of contracts subject to the restrictions. **Section 1** also prohibits a state agency from entering into a contract with a person for services without ensuring that the person is in active and good standing with the Secretary of State. **Section 1 also provides that certain provisions governing state purchasing apply to such contracts.** **Section 2** of this bill requires state agencies to report all contracts for services as part of the budget process instead of only reporting contracts with consultants and temporary employment services. **Section 3** moves the reporting requirements for school districts regarding consultants to the chapter which specifically governs school districts.

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

Section 1. NRS 284.1729 is hereby amended to read as follows:

284.1729 1. Except as otherwise provided in this section, a department, division or other agency of this State shall not ~~[employ, by]~~ ***enter into a*** contract ~~[or otherwise,]~~ ***with*** a person to provide services ~~[as a consultant]~~ for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than ~~[1 year has]~~ ***2 years have*** expired since the termination of the person's employment with the State;

(c) Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years; or

(d) The person is employed by the Department of Transportation for a transportation project that is ~~[federally]~~ ***entirely*** funded ***by federal money*** and the term of the contract is for more than 4 years, ~~[or is amended or otherwise extended beyond 4 years,]~~

➥ unless, before the ~~[person is employed]~~ ***contract is executed*** by the agency, the ~~[Interim Finance Committee]~~ ***State Board of Examiners*** approves the employment of the person. ***The requirements of this subsection apply to any person employed by a business or other entity that enters into a contract to provide services for a department, division or agency of this State if the person will be performing or producing the services for which the business or entity is employed.***

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service

providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The ~~[Interim Finance Committee]~~ ***State Board of Examiners*** shall not approve ~~[the employment of a consultant]~~ ***a contract*** pursuant to paragraph (b) of subsection 1 unless the ~~[Interim Finance Committee]~~ ***Board*** determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to ~~[employ]~~ ***contract with*** the person . ~~[as a consultant.]~~

3. A department, division or other agency of this State may ~~[employ]~~ ***contract with*** a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the ~~[Interim Finance Committee]~~ ***State Board of Examiners*** if the term of ~~[employment]~~ ***the contract*** is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the ~~[employment.]~~ ***contract.*** If a department, division or agency ~~[employs]~~ ***contracts with*** a person pursuant to this subsection, the department, division or agency shall ~~[include in the report to the]~~ ~~[Interim Finance Committee]~~ ~~*[State Board of Examiners* pursuant to subsection 4]~~ ***submit a copy of the contract and*** a description of the emergency ~~[.]~~ ***to the State Board of Examiners, which shall review the contract and the description of the emergency and notify the department, division or agency whether the State Board of Examiners would have approved the contract if it had not been entered into pursuant to this subsection.***

4. Except as otherwise provided in subsection ~~[7,]~~ ~~*[8,]*~~ ***9,*** a department, division or other agency of this State shall ***, not later than 10 days after the end of each fiscal quarter,*** report to the Interim Finance Committee ~~[whenever it]~~ ~~[employs, by contract or otherwise,]~~ ***concerning all contracts*** ~~*[with* a person]~~ to provide services ~~[as a consultant]~~ for the agency ***that were entered into by the agency during the fiscal quarter with a person*** who is a ***current or*** former employee of a department, division or other agency of this State.

5. Except as otherwise provided in subsection ~~[7,]~~ ~~*[8,]*~~ ***9,*** a department, division or other agency of this State shall not contract with a temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

6. Each board or commission of this State ~~[, each school district in this State]~~ and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

(a) The number of consultants employed by the board, commission ~~[, school district]~~ or institution;

(b) The purpose for which the board, commission ~~[, school district]~~ or institution employs each consultant;

(c) The amount of money or other remuneration received by each consultant from the board, commission ~~[, school district]~~ or institution; and

(d) The length of time each consultant has been employed by the board, commission ~~[, school district]~~ or institution.

7. ***A department, division or other agency of this State, including a board or commission of this State and each institution of the Nevada System of Higher Education, shall not enter into a contract with a person to provide services without ensuring that the person is in active and good standing with the Secretary of State.***

8. The provisions of chapter 333 of NRS that are not in conflict or otherwise inconsistent with this section apply to a contract entered into pursuant to this section.

9. The provisions of subsections 1 to 5, inclusive, do not apply to ***:*** ~~[the:]~~

(a) ***The*** Nevada System of Higher Education or a board or commission of this State.

(b) ~~[Employment]~~ ***The employment*** of professional engineers by the Department of Transportation if those engineers are employed for a transportation project that is ~~[federally funded.~~

~~8. For the purposes of this section, "consultant" includes any person employed by a business or other entity that is providing consulting services if the person will be performing or producing the work for which the business or entity is employed.]~~ ***entirely funded by federal money.***

(c) Contracts in the amount of $1 million or more entered into:

(1) Pursuant to the State Plan for Medicaid established pursuant to NRS 422.271.

(2) For financial services.

(3) Pursuant to the Public Employees' Benefits Program.

(d) The employment of a person by a business or entity which is a provider of services under the State Plan for Medicaid and which provides such services on a fee-for-service basis or through managed care.

Sec. 2. NRS 353.210 is hereby amended to read as follows:

353.210 1. Except as otherwise provided in subsection 6, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy;

(b) Any existing contracts ***for services*** the department, institution or agency has with ~~[consultants or]~~ temporary employment services ~~[,]~~ ***or other***

persons, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such ~~[consultants or]~~ services; and

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his or her designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in the Chief's office or which the Chief may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his or her information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 3. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

Each school district in this State that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

1. The number of consultants employed by the school district;

2. The purpose for which the school district employs each consultant;

3. The amount of money or other remuneration received by each consultant from the school district; and

4. The length of time each consultant has been employed by the school district.

Sec. 4. 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. 764 to Assembly Bill No. 240 specifies that emergency contracts must be filed with the Board of Examiners (BOE) and provides that the BOE must review the contract and notify the department or division whether the Board would have approved the contract if it had not been an emergency. It requires a State agency that contracts with a current or former employee to report such contracts to the BOE and the Interim Finance Committee (IFC) on a quarterly basis.

The amendment clarifies that the provisions of Chapter 333 of the *Nevada Revised Statutes* (NRS) that are not in conflict or otherwise inconsistent with the new contracting requirements in the bill do apply to a contract entered into under Section 1 of the bill. It clarifies that the new contracting requirements in the bill do not apply to the employment of a person or business entity which is a provider of services under the State Plan for Medicaid and which provides those services on a fee-for-service basis.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 419.

Bill read second time.

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

Amendment No. 789.

"SUMMARY—Revises provisions relating to groundwater basins. (BDR 48-299)"

"AN ACT relating to water; requiring the State Engineer to designate certain groundwater basins as critical management areas in certain circumstances; requiring the State Engineer to take certain actions in such a basin unless a groundwater management plan has been approved for the basin; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Engineer has various powers and duties with respect to regulating the groundwater in this State. (Chapter 534 of NRS) **Section 3** of this bill requires the State Engineer to designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon the petition of a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer. If a basin is so designated for at least 10 consecutive years, **section 3** requires the State Engineer to order that withdrawals of groundwater be restricted in the basin to conform to priority rights, unless a groundwater management plan has been approved for the basin. **Section 1** of this bill prescribes the procedure for the proposal, approval and revision of such a plan. **Section 2** of this bill

includes the existence of a groundwater management plan in a basin as a consideration for the State Engineer in determining whether to grant a request for an extension of the time necessary to work a forfeiture of water in such a basin.

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

Section 1. Chapter 534 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a basin that has been designated as a critical management area by the State Engineer pursuant to subsection 7 of NRS 534.110, a petition for the approval of a groundwater management plan for the basin may be submitted to the State Engineer. The petition must be signed by a majority of the holders of permits or certificates to appropriate water in the basin that are on file in the Office of the State Engineer and must be accompanied by a groundwater management plan which must set forth the necessary steps for removal of the basin's designation as a critical management area.

2. In determining whether to approve a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall consider, without limitation:

(a) The hydrology of the basin;

(b) The physical characteristics of the basin;

(c) ~~*[The relationship between surface water and groundwater in the basin;*~~

~~*(d)]*~~ ***The geographic spacing and location of the withdrawals of groundwater in the basin;***

~~*[(e)]*~~ ***(d) The quality of the water in the basin;***

~~*[(f)]*~~ ***(e) The wells located in the basin, including, without limitation, domestic wells;***

~~*[(g)]*~~ ***(f) Whether a groundwater management plan already exists for the basin; and***

~~*[(h)]*~~ ***(g) Any other factor deemed relevant by the State Engineer.***

3. Before approving or disapproving a groundwater management plan submitted pursuant to subsection 1, the State Engineer shall hold a public hearing to take testimony on the plan in the county where the basin lies or, if the basin lies in more than one county, within the county where the major portion of the basin lies. The State Engineer shall cause notice of the hearing to be:

(a) Given once each week for 2 consecutive weeks before the hearing in a newspaper of general circulation in the county or counties in which the basin lies.

(b) Posted on the Internet website of the State Engineer for at least 2 consecutive weeks immediately preceding the date of the hearing.

4. The decision of the State Engineer on a groundwater management plan may be reviewed by the district court of the county pursuant to NRS 533.450.

5. An amendment to a groundwater management plan must be proposed and approved in the same manner as an original groundwater management plan is proposed and approved pursuant to this section.

Sec. 2. NRS 534.090 is hereby amended to read as follows:

534.090 1. Except as otherwise provided in this section, failure for 5 successive years after April 15, 1967, on the part of the holder of any right, whether it is an adjudicated right, an unadjudicated right or a permitted right, and further whether the right is initiated after or before March 25, 1939, to use beneficially all or any part of the underground water for the purpose for which the right is acquired or claimed, works a forfeiture of both undetermined rights and determined rights to the use of that water to the extent of the nonuse. If the records of the State Engineer or any other documents specified by the State Engineer indicate at least 4 consecutive years, but less than 5 consecutive years, of nonuse of all or any part of a water right which is governed by this chapter, the State Engineer shall notify the owner of the water right, as determined in the records of the Office of the State Engineer, by registered or certified mail that the owner has 1 year after the date of the notice in which to use the water right beneficially and to provide proof of such use to the State Engineer or apply for relief pursuant to subsection 2 to avoid forfeiting the water right. If, after 1 year after the date of the notice, proof of beneficial use is not sent to the State Engineer, the State Engineer shall, unless the State Engineer has granted a request to extend the time necessary to work a forfeiture of the water right, declare the right forfeited within 30 days. Upon the forfeiture of a right to the use of groundwater, the water reverts to the public and is available for further appropriation, subject to existing rights. If, upon notice by registered or certified mail to the owner of record whose right has been declared forfeited, the owner of record fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the forfeiture becomes final. The failure to receive a notice pursuant to this subsection does not nullify the forfeiture or extend the time necessary to work the forfeiture of a water right.

2. The State Engineer may, upon the request of the holder of any right described in subsection 1, extend the time necessary to work a forfeiture under that subsection if the request is made before the expiration of the time necessary to work a forfeiture. The State Engineer may grant, upon request and for good cause shown, any number of extensions, but a single extension must not exceed 1 year. In determining whether to grant or deny a request, the State Engineer shall, among other reasons, consider:

(a) Whether the holder has shown good cause for the holder's failure to use all or any part of the water beneficially for the purpose for which the holder's right is acquired or claimed;

(b) The unavailability of water to put to a beneficial use which is beyond the control of the holder;

(c) Any economic conditions or natural disasters which made the holder unable to put the water to that use;

(d) Any prolonged period in which precipitation in the basin where the water right is located is below the average for that basin or in which indexes that measure soil moisture show that a deficit in soil moisture has occurred in that basin; ~~[and]~~

(e) ***Whether a groundwater management plan has been approved for the basin pursuant to section 1 of this act; and***

(f) Whether the holder has demonstrated efficient ways of using the water for agricultural purposes, such as center-pivot irrigation.

➥ The State Engineer shall notify, by registered or certified mail, the owner of the water right, as determined in the records of the Office of the State Engineer, of whether the State Engineer has granted or denied the holder's request for an extension pursuant to this subsection.

3. If the failure to use the water pursuant to subsection 1 is because of the use of center-pivot irrigation before July 1, 1983, and such use could result in a forfeiture of a portion of a right, the State Engineer shall, by registered or certified mail, send to the owner of record a notice of intent to declare a forfeiture. The notice must provide that the owner has at least 1 year after the date of the notice to use the water beneficially or apply for additional relief pursuant to subsection 2 before forfeiture of the owner's right is declared by the State Engineer.

4. A right to use underground water whether it is vested or otherwise may be lost by abandonment. If the State Engineer, in investigating a groundwater source, upon which there has been a prior right, for the purpose of acting upon an application to appropriate water from the same source, is of the belief from his or her examination that an abandonment has taken place, the State Engineer shall so state in the ruling approving the application. If, upon notice by registered or certified mail to the owner of record who had the prior right, the owner of record of the prior right fails to appeal the ruling in the manner provided for in NRS 533.450, and within the time provided for therein, the alleged abandonment declaration as set forth by the State Engineer becomes final.

Sec. 3. NRS 534.110 is hereby amended to read as follows:

534.110 1. The State Engineer shall administer this chapter and shall prescribe all necessary regulations within the terms of this chapter for its administration.

2. The State Engineer may:

(a) Require periodical statements of water elevations, water used, and acreage on which water was used from all holders of permits and claimants of vested rights.

(b) Upon his or her own initiation, conduct pumping tests to determine if overpumping is indicated, to determine the specific yield of the aquifers and to determine permeability characteristics.

3. The State Engineer shall determine whether there is unappropriated water in the area affected and may issue permits only if the determination is affirmative. The State Engineer may require each applicant to whom a permit is issued for a 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,

➥ to report periodically to the State Engineer concerning the effect of that well on other previously existing wells that are located within 2,500 feet of the well.

4. It is a condition of each appropriation of groundwater acquired under this chapter that the right of the appropriator relates to a specific quantity of water and that the right must allow for a reasonable lowering of the static water level at the appropriator's point of diversion. In determining a reasonable lowering of the static water level in a particular area, the State Engineer shall consider the economics of pumping water for the general type of crops growing and may also consider the effect of using water on the economy of the area in general.

5. This section does not prevent the granting of permits to applicants later in time on the ground that the diversions under the proposed later appropriations may cause the water level to be lowered at the point of diversion of a prior appropriator, so long as any protectable interests in existing domestic wells as set forth in NRS 533.024 and the rights of holders of existing appropriations can be satisfied under such express conditions. At the time a permit is granted for a 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 State Engineer shall include as a condition of the permit that pumping water pursuant to the permit may be limited or prohibited to prevent any unreasonable adverse effects on an existing domestic well located within 2,500 feet of the well, unless the holder of the permit and the owner of the domestic well have agreed to alternative measures that mitigate those adverse effects.

6. ~~[The]~~ ***Except as otherwise provided in subsection 7, the*** State Engineer shall conduct investigations in any basin or portion thereof where it appears that the average annual replenishment to the groundwater supply may not be adequate for the needs of all permittees and all vested-right claimants, and if the findings of the State Engineer so indicate, the State Engineer may order that withdrawals, ***including, without limitation, withdrawals from domestic wells,*** be restricted to conform to priority rights.

7. ***The State Engineer:***

(a) May designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin.

(b) Shall designate as a critical management area any basin in which withdrawals of groundwater consistently exceed the perennial yield of the basin upon receipt of a petition for such a designation which is signed by a majority of the holders of certificates or permits to appropriate water in the basin that are on file in the Office of the State Engineer.

➥ The designation of a basin as a critical management area pursuant to this subsection may be appealed pursuant to NRS 533.450. If a basin has been designated as a critical management area for at least 10 consecutive years, the State Engineer shall order that withdrawals, including, without limitation, withdrawals from domestic wells, be restricted in that basin to conform to priority rights, unless a groundwater management plan has been approved for the basin pursuant to section 1 of this act.

8. In any basin or portion thereof in the State designated by the State Engineer, the State Engineer may restrict drilling of wells in any portion thereof if the State Engineer determines that additional wells would cause an undue interference with existing wells. Any order or decision of the State Engineer so restricting drilling of such wells may be reviewed by the district court of the county pursuant to NRS 533.450.

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

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. 789 to Assembly Bill No. 419 removes one of the criteria the State Engineer may consider when determining whether to approve a groundwater management plan. This criteria is the relationship between surface water and groundwater in the basin.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 500.

Bill read second time and ordered to third reading.

Assembly Bill No. 519.

Bill read second time and ordered to third reading.

Assembly Bill No. 521.

Bill read second time and ordered to third reading.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was referred Senate Bill No. 54, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which was re-referred Senate Bill No. 429, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

GENERAL FILE AND THIRD READING

Senate Bill No. 271.

Bill read third time.

Remarks by Senators Lee and Leslie.

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

SENATOR LEE:

Senate Bill No. 271 provides for the withdrawal of the State of Nevada from the Tahoe Regional Planning Compact under certain circumstances. This withdrawal will take effect on October 1, 2014, unless the governing body of the Tahoe Regional Planning Agency (TRPA) adopts an updated Regional Plan and certain proposed amendments to the Compact. These amendments include: the removal of the supermajority requirement for the governing body of the Agency to establish a quorum and to vote on matters considered by the TRPA; requiring the Regional Plan of the TRPA to consider the Lake Tahoe Basin's changing conditions; and adding language to the Compact that provides that a person who challenges the Regional Plan has the burden of proof to show that the plan violates the Compact. The Governor may issue a proclamation extending this withdrawal deadline to October 1, 2017.

Finally, Senate Bill No. 271 requires the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency to prepare a report on issues relating to this bill and the impacts of this bill to the Compact.

This bill has been highly vetted, highly worked on. We have had the Congressional team, the State Executive Office, the Legislature all work together on this bill. This is the compromise that the State of Nevada is willing to discuss with California.

SENATOR LESLIE:

As we all recall, the TRPA was enacted in 1969 by two Governors, Reagan and Laxalt. The Bi-State Agreement was a response to the challenges faced at Lake Tahoe by the five counties and the two states that border it. It was in response to concerns about pollution and development at the Lake. Everyone had the same goal in 1969, which was to keep the pristine waters of Lake Tahoe pristine. Since that time, there have been ongoing struggles by the different interests at the Lake including lawsuits, increased regulations and accusations from all sides. This bill conditions Nevada's continued participation in the TRPA upon actions by California and the federal government, approving compact amendments and making progress on an updated regional plan. If these goals are not reached by October 1, 2014, Nevada's Governor can ask for another three years or Nevada's Governor can agree to remove Nevada from the TRPA. There will be no negotiations about how much progress has or has not been made, and the Legislature will have no further say in the matter. This bill does not require Nevada to work with California or the federal government. It almost encourages people to do nothing. For those who want to get rid of TRPA, there is no incentive to work on a new regional plan at all. Their best option is to do nothing and hope that Nevada withdraws in 2014.

I fear this bill will result in increased environmental damage at Lake Tahoe and a loss of much needed federal funding. Who is going to give us federal funding in this state of uncertainty? I respect my colleague's position. I know he is sincere in his love for Lake Tahoe as I am. But this bill is too extreme. We should focus on working together to resolve these issues and not be threatening withdrawal. This bill sends a clear message, but it is the wrong message. It says that Nevadans care more about the needs of builders and developers than they do about the health of Lake Tahoe. I urge you to vote against this bill.

SENATOR LEE:

We have wonderful people who sit on the Board of the TRPA. They are appointed by the Governor. They are Nevadans. They care about what is happening on the Nevada side of the

Lake. We are not making any environmental changes. We are not doing anything that will not keep the Lake in its pristine condition now and in the future. What we are hoping to accomplish is to see that we can get a regional plan there. That we will be able to go in, work on a plan for the Lake, make it lake-wide so that everyone up there will know what they can and cannot do in the area, rather than an unnamed group of people or agency that fights every single thing that takes place up there. We are going into this next season with the ability to say, we do not want you to shut down everything Nevada thinks and does up there. We want to be able to discuss ideas, rather than come to a meeting where the votes are already in, and every good idea or thought that Nevada has is killed. If I thought for one minute that we were going to harm this compact without giving the Congressional team, the Governor's Office, or the Legislature a chance to be considered in this, then I would not have put this forth. We have the time and we have the people in the State of Nevada who want to work closely with California to bridge the challenges we have and to continue to keep Lake Tahoe one of the most beautiful places in the world.

Roll call on Senate Bill No. 271:

YEAS—19.

NAYS—Denis, Leslie—2.

Senate Bill No. 271 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 359.

Bill read third time.

Remarks by Senators Kieckhefer, Horsford, Brower and Denis.

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

SENATOR KIECKHEFER:

Thank you, Mr. President. I rise in opposition to this bill. I was able to serve on the subcommittee that reviewed the various provisions of this bill and there are many good provisions in Senate Bill No. 359. Those provisions need to be in there to ensure that we have a good process to ensure we are getting the most out of our taxpayer dollars when it comes to putting contracts out to bid. Unfortunately, I believe that Section 15 of the bill is going to result in the exact opposite of that. Section 15 is designed to collect the racial and gender data for people who both and bid on and are awarded public works as a base line for creating a bidders' preference for all public works in this State for minority and women-owned businesses.

I believe that the public works process has been created and designed to offer a fair and equitable process for anyone to bid on a public work and that is why price is ultimately the deciding factor as to whether a contract is awarded. There is significant frustration that the process currently being utilized does not always offer opportunity or that minority and women-owned businesses are not participating at the rate that maybe they should when contracts are awarded. If there is a problem with that process, I believe that is a process that needs to be fixed. But, creating a bidders' preference is the wrong vehicle to do so. Bidders' preferences' whether they are geographically based or racially-based or gender-based, ultimately result in a higher cost to the taxpayers. The notion of what we are supposed to do is to get the best product for the best price for the taxpayers of this State. Bidders' preferences of any sort undermine that notion. While this bill does not implement a bidders' preference, it is the stated intent to collect this data in order to create one.

For that purpose, I oppose it and encourage you to do the same.

SENATOR HORSFORD:

I want to thank my colleague from Washoe District No. 4 for his many hours working on the subcommittee that deliberated on this measure. I want to clarify for the record that this bill does

not establish preferences. It does not collect the data to automatically determine preferences. That is not what this bill does.

Section 15, the provision that is in question, requires data on race, ethnicity, gender and age of individuals applying for or hired on public works projects. It was determined by Legal Counsel that preferences cannot be established for these protected classes without data to support the need. I do not know whether or not there is disparity among individuals who are applying for or are hired on public works projects based on race, ethnicity, gender or age. I do not know that because no one collects the data for that. It is not reported. This bill and the provisions in Section 15 merely allow for the collection of that information because these are public works projects paid for by taxpayers. It is information that I think we should want to know regardless whether or not there are disparities.

I want it to be absolutely clear that this bill does not establish preference. There was a statement made by my colleague that somehow if it does establish preferences that women or minority-owned businesses would charge more. Therefore, price would be a factor. There is nothing in this bill that deals with that, and I would challenge whether or not that is even true. A woman or minority-owned firm could have the lowest price contract and be issued a contract.

This is an issue that emerged during the four months of this Legislative Session. It goes to the heart of one of the things that we are trying to accomplish this Legislative Session, which is government efficiency.

We had a number of hearings in the Senate Finance Committee on contracting prices. We concentrated on several of the largest contracts that are current in State government that lack the elements of efficiency, transparency and accountability we want in State government. We found instances where sole-source contracts were rolled over year after year without consideration of other vendors who might be able to do the same work at a lower cost. We found multi-year contracts that were extended without competitive bidding, which might bring down the cost of those contracts. We found the need to periodically revisit contracts because of changes in economic conditions that could result in lower cost contracts. In terms of transparency, some of the contracts we reviewed contain fees charged to consumers that were not adequately disclosed in the terms of the contracts and not in ways that the average Nevadan would be able to find.

Senate Bill No. 359 addresses these issues. For the reasons of accountability, transparency and efficiency I urge the body's adoption of this bill. As for the area of Section 15, it lays the foundation for how we approach contracting in public works, starting with making a determination on whether all elements of our population are proportionately represented in the public works projects.

If we are going to put people to work, it should be all people. The provisions of this bill require contractors, subcontractors and suppliers to report the information listed under Section 15 so that we know who is working and who is applying and how we can put all Nevadans to work on these public projects. I urge the body's approval of this bill.

SENATOR BROWER:

Thank you, Mr. President. I appreciate the Majority Leader's concern about the sole-source issue. I think Section 15 goes too far. I do not know, why we as a State government, and why we as a federal government are so obsessed in determining the race, gender, ethnicity and age of our fellow citizens. I do not get that. Why should it matter? In this context, we ought to be focused on character, qualifications and cost. Those are the factors that should matter in determining who the best contractor might be for a State project. While this bill, as my colleague from Washoe County indicated, does have some positive attributes, I do not know why, as a government, we are so concerned with determining the race and ethnicity of people who want to do business with us.

SENATOR DENIS:

Thank you, Mr. President. I would like to respond to the previous speaker. We have had discussions in this Chamber concerning this subject in the redistricting plans. There was a lot of concern there for the Hispanic community, but now, we do not have concern when it comes to this bill. I think this is a good bill and I think we should support it.

Roll call on Senate Bill No. 359:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

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

Senate Bill No. 439.
Bill read third time.
Roll call on Senate Bill No. 439:
YEAS—21.
NAYS—None.

Senate Bill No. 439 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 452.
Bill read third time.
Roll call on Senate Bill No. 452:
YEAS—21.
NAYS—None.

Senate Bill No. 452 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 499.
Bill read third time.
Roll call on Senate Bill No. 499:
YEAS—21.
NAYS—None.

Senate Bill No. 499 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Gustavson moved that Assembly Bill No. 545 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 122.
Bill read third time.
Roll call on Assembly Bill No. 122:
YEAS—21.
NAYS—None.

Assembly Bill No. 122 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 132.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 132 provides that certain charter cities in the State that do not currently hold their elections in concurrence with the statewide election cycle may, by ordinance, choose to switch to the statewide cycle. No term of office may be lengthened in order to accomplish the switch, but a term of office may be shortened as necessary.

If the city council of Boulder City, Henderson, Las Vegas, or North Las Vegas adopts such an ordinance, terms of current office holders may not be shortened, but subsequent terms may be shortened to accomplish the transition to the statewide cycle. This provision does not apply to Caliente or Yerington.

Roll call on Assembly Bill No. 132:

YEAS—21.

NAYS—None.

Assembly Bill No. 132 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 160.

Bill read third time.

Roll call on Assembly Bill No. 160:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Roberson, Settelmeyer—8.

Assembly Bill No. 160 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 179.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 179 requires the appointing authorities of State agencies to provide permanent classified employees with a copy of the policy approved by the Personnel Commission explaining prohibited acts, violations and penalties, and the disciplinary process. Before taking certain disciplinary actions, an appointing authority must consult with the Attorney General or, for appointing authorities within the Nevada System of Higher Education, with the System's general counsel. The appointing authority is not required to get permission from the legal counsel to take action.

Internal investigations and any resulting determination must be completed within 90 days after notice of the allegations is given to the employee. The appointing authority may request an extension of not more than 60 days from the Director of the Department of Personnel upon a showing of good cause. Only the Governor may grant a further extension.

Roll call on Assembly Bill No. 179:
YEAS—21.
NAYS—None.

Assembly Bill No. 179 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 230.

Bill read third time.

Remarks by Senator Denis.

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

Assembly Bill No. 230 requires the Commission on Professional Standards in Education to adopt regulations on or before December 31, 2011, which prescribe the qualifications for licensing teachers and administrators pursuant to an alternative route to licensure program. The measure sets forth certain requirements for the regulations, as follows.

The required education and training may be provided by any qualified provider that has been approved by the Commission, including institutions of higher education and other providers that operate independently of an institution of higher education.

A candidate may apply for a license obtained through an alternative route prior to receiving an offer for employment from a school district, charter school, or private school.

The regulations must 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.

The required education and training under the program may be completed in two years or less; and upon completion of the required education and training required under the program and all other requirements for licensure, the person must be issued a regular license.

Finally, the State Board of Education is required to evaluate qualified providers of education and training for licensure of teachers and administrators. The evaluation must include the number of personnel licensed from each approved provider, how many of those persons are employed by school districts and charter schools in Nevada, along with aggregated data from performance evaluations. This information is to be made available to the public annually.

This is something we have talked about to provide opportunities for us to get teachers through this alternative route.

Roll call on Assembly Bill No. 230:
YEAS—21.
NAYS—None.

Assembly Bill No. 230 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 238.

Bill read third time.

Roll call on Assembly Bill No. 238:
YEAS—15.
NAYS—Cegavske, Gustavson, Halseth, McGinness, Roberson, Settelmeyer—6.

Assembly Bill No. 238 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 283.

Bill read third time.

Roll call on Assembly Bill No. 283:

YEAS—21.

NAYS—None.

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 289.

Bill read third time.

Remarks by Senators Schneider, Hardy and Wiener.

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

SENATOR SCHNEIDER:

Assembly Bill No. 289 provides for regulation of the practice of dietetics by the State Board of Health and prescribes the powers and duties of the Board. The measure requires the Board to charge and collect fees relating to the issuance of licenses and to carry out its other duties. In addition to regular licenses, the Board may issue provisional licenses to persons who do not meet all of the requirements for licensure, and may issue temporary licenses for the purpose of treating patients in this State for a limited period.

I would like to comment that there is a group of people in this State who have spun out of control. They are on a mission to kill this bill for no reason. We have made all of the adjustments to this bill to take everyone out of the bill. My cell phone has been going off with robo calls. It started last night. It has been unbelievable how this robo call has been going around. There have been calls to our offices from robo calls. They are lighting up the public by having them think that we are going to make people who sell vitamins be licensed. That is anything but the truth. I am upset about this and the actions of the people out there. They have accused members of my Committee and other members of the Legislature of doing something that is not in the law. I encourage everyone to vote for this and to send a real message to these "yahoos" who are out of control in this State right now.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 289. I would be remiss if I did not stand up in support of this. My daughter, Emily, is a Registered Dietician, an R.D. or real dietician. She is responsible for the continued life of my well-loved and adored mother-in-law who has been on dialysis for two and one-half years. Before that, she was supposed to have been on dialysis for five years but in doing simple things that dieticians do, she worked with my mother-in-law and had her change things that needed to be changed. The doctors often, repeatedly, and with much appreciation, use dieticians to care for critically ill patients on hyper alimentation, perennial feedings and save limbs from being cut off. I would be remiss if I did not say my appreciation for dieticians and particularly, my daughter Emily.

SENATOR WIENER:

Thank you, Mr. President. For many years, I have worked closely with Registered Dieticians in the fitness and wellness program that is part of the Health Division. With this licensure of Registered Dietitians comes a substantial amount of federal funding. And we Legislators have been talking a lot about money, these days. By not licensing R.D.s, or Registered Dieticians, we could lose significant money from the federal government because many health-related programs require licensure for the Registered Dieticians. So, there is a financial impact in my State, as well as the humanitarian impact that my colleague from Boulder City has mentioned.

Roll call on Assembly Bill No. 289:
YEAS—18.
NAYS—Gustavson, Halseth, Roberson—3.

Assembly Bill No. 289 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 291, 304, 308, 360, 393, 398, 501, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

RECEDE FROM SENATE AMENDMENTS

Senator Copening moved that the Senate do not recede from its action on Assembly Bill No. 362, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, Hardy and Copening as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 362.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 245, 470, 474, 478, 479, 482; Senate Concurrent Resolutions Nos. 1, 2; Assembly Bills Nos. 365, 382, 422, 477, 551; Assembly Joint Resolution No. 5 of the 75th Session; Assembly Concurrent Resolution No. 11.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Brower, the privilege of the Floor of the Senate Chamber for this day was extended to Rick Korbel.

On request of Senator Horsford, the privilege of the Floor of the Senate Chamber for this day was extended to Antoinette Malveaux, William Bell, Marva Hammons and Paul Buehler.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Erica Korbel.

Senator Horsford moved that the Senate adjourn until Saturday, May 28, 2011, at 10 a.m.

Motion carried.

Senate adjourned at 2:30 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND ELEVENTH DAY

CARSON CITY (Saturday), May 28, 2011

Senate called to order at 10:37 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Valerie Wiener, RScP.

As we stand in this place, in the power and presence of God, taking in that breath of life, we know that God is the source of all life, that it is God that breathes each of us.

The magnificence of the One is the center and source of the Universe and all that is. God is life, joy, love, and peace and, in all that we are, we demonstrate these qualities as the ideas of God.

Today we think, believe in, and know the wisdom and intelligence of what we do and how we do it.

We demonstrate this Highest Power in all that we think, in all the ways that we express, and how we experience who we are.

As we share our ideas, knowing that we do this in the best interest of the people we serve, the people who call Nevada home, we do it as ideas of God. We are the demonstration of this Highest Power and Presence that express, in, of, and as each of us, in all that we do and all that we are.

For this I am so grateful, knowing that each step we take this day, and the days ahead, we are doing so with wisdom, intelligence, and love.

And so it is,

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 Finance, to which were re-referred Senate Bills Nos. 207, 437, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Assembly Bill No. 322; Assembly Joint Resolution No. 5, 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 Assembly Bills Nos. 152, 204, 212, 232, 384, 463, 508, 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 Assembly Bills Nos. 2, 53, 328, 374, 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, May 27, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 552.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 13; Assembly Concurrent Resolution No. 10.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 571 to Assembly Bill No. 196.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 576 to Assembly Bill No. 282 and respectfully refused to concur in Senate Amendment No. 780 to Assembly Bill No. 282.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 621 to Assembly Bill No. 498.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 10.

Senator Wiener moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 552.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 54.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 795.

"SUMMARY—Revises provisions governing the Fund to Increase the Quality of Nursing Care. (BDR 38-444)"

"AN ACT relating to nursing facilities; revising provisions governing the Fund to Increase the Quality of Nursing Care; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, each nursing facility that is licensed in this State is required to pay a fee to the Division of Health Care Financing and Policy of the Department of Health and Human Services in an amount determined by the Division. (NRS 422.3775) The fees collected by the Division are required to be deposited in the Fund to Increase the Quality of Nursing Care and used to increase rates paid to nursing facilities for providing services to Medicaid

recipients and to administer the assessment of the fees. Existing law prohibits the money in the Fund from being used to replace existing state expenditures paid to nursing facilities. (NRS 422.3785) This bill removes that prohibition.

Existing law further provides that if federal law or regulation prohibits the money in the Fund from being used in the manner specified by statute, the rates must be set at certain amounts. (NRS 422.3785) ~~[This]~~ **Section 1 of this** bill instead provides that in such circumstances, the rates must be changed to the rates provided by the Division. **Section 2 of this bill expires the provisions of the bill on July 1, 2013.**

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

Section 1. NRS 422.3785 is hereby amended to read as follows:

422.3785 1. There is hereby created in the State Treasury the Fund to Increase the Quality of Nursing Care, to be administered by the Division.

2. The Fund to Increase the Quality of Nursing Care must be a separate and continuing fund, and no money in the Fund reverts to the State General Fund at any time. The interest and income on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

3. Any money received by the Division pursuant to NRS 422.3755 to 422.379, inclusive, must be deposited in the State Treasury for credit to the Fund to Increase the Quality of Nursing Care, and must be expended, to the extent authorized by federal law, to obtain federal financial participation in the Medicaid Program, and in the manner set forth in subsection 4.

4. Expenditures from the Fund to Increase the Quality of Nursing Care must be used only:

(a) To increase the rates paid to nursing facilities for providing services pursuant to the Medicaid Program *;* ~~[and may not be used to replace existing state expenditures paid to nursing facilities for providing services pursuant to the Medicaid Program;]~~ and

(b) To administer the provisions of NRS 422.3755 to 422.379, inclusive. The amount expended pursuant to this paragraph must not exceed 1 percent of the money received from the fees assessed pursuant to NRS 422.3755 to 422.379, inclusive, and must not exceed the amount authorized for expenditure by the Legislature for administrative expenses in a fiscal year.

5. If federal law or regulation prohibits the money in the Fund to Increase the Quality of Nursing Care from being used in the manner set forth in this section, the rates paid to nursing facilities for providing services pursuant to the Medicaid Program must be changed ~~[~~:

~~(a) Except as otherwise provided in paragraph (b), to the rates paid to such facilities on June 30, 2003; or~~

~~(b) If the Legislature or the Division has on or after July 1, 2003, changed the rates paid to such facilities through a manner other than the use of expenditures from the Fund to Increase the Quality of Nursing Care,]~~ to the rates provided for by the ~~[Legislature or the]~~ Division.

Sec. 2. This act becomes effective upon passage and approval **[.] and expires by limitation on July 1, 2013.**

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

The amendment adds a sunset to the bill, which expires the provisions on July 1, 2013.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 429.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 796.

"SUMMARY—Revises the authority of the Department of Health and Human Services to contract for transportation services for the recipients of services under the Children's Health Insurance Program. (BDR 38-1197)"

"AN ACT relating to the Children's Health Insurance Program; revising provisions relating to the authority of the Department of Health and Human Services to contract for transportation services for the recipients of services under the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Department of Health and Human Services is required, to the extent authorized by federal law, to contract with certain motor carriers or others to provide transportation services to certain recipients of services pursuant to the Children's Health Insurance Program when those recipients are traveling to and from providers of services under those programs. (NRS 422.2705) **[**~~This~~**]** **Section 1 of this** bill makes contracting by the Department for such transportation services discretionary. **Section 2 of this bill provides that the amendatory provisions of this bill expire by limitation on June 30, 2013.**

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

Section 1. NRS 422.2705 is hereby amended to read as follows:

422.2705 1. The Department shall, to the extent authorized by federal law, contract with a common motor carrier, a contract motor carrier or a broker for the provision of transportation services to recipients of Medicaid **[**~~or recipients of services pursuant to the Children's Health Insurance Program~~**]** traveling to and returning from providers of services under the State Plan for Medicaid . **[**~~or the Children's Health Insurance Program.~~**]**

2. ***The Department may, to the extent authorized by federal law, contract with a common motor carrier, a contract motor carrier or a broker for the provision of transportation services to recipients of services pursuant to the Children's Health Insurance Program traveling to and***

returning from providers of services under the Children's Health Insurance Program.

3. The Director may adopt regulations concerning the qualifications of persons who may contract with the Department to provide transportation services pursuant to this section.

~~[3.]~~ ***4.*** The Director shall:

(a) Require each motor carrier that has contracted with the Department to provide transportation services pursuant to this section to submit proof to the Department of a liability insurance policy, certificate of insurance or surety which is substantially equivalent in form to and is in the same amount or in a greater amount than the policy, certificate or surety required by the Department of Motor Vehicles pursuant to NRS 706.291 for a similarly situated motor carrier; and

(b) Establish a program, with the assistance of the Nevada Transportation Authority of the Department of Business and Industry, to inspect the vehicles which are used to provide transportation services pursuant to this section to ensure that the vehicles and their operation are safe.

~~[4.]~~ ***5.*** As used in this section:

(a) "Broker" has the meaning ascribed to it in NRS 706.021.

(b) "Common motor carrier" has the meaning ascribed to it in NRS 706.036.

(c) "Contract motor carrier" has the meaning ascribed to it in NRS 706.051.

Sec. 2. This act becomes effective upon passage and approval**_ ~~[.]~~ and expires by limitation on June 30, 2013.**

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

This amendment adds a sunset provision for the provisions to expire June 30, 2013.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 265.

Bill read second time.

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

Amendment No. 800.

"SUMMARY—Revises provisions governing the rights of peace officers. (BDR 23-716)"

"AN ACT relating to peace officers; revising the circumstances under which a law enforcement agency is prohibited from suspending a peace officer without pay during an investigation; authorizing a representative of a peace officer to attend an interview with the peace officer under certain circumstances; requiring a law enforcement agency to revise a peace officer's

work schedule for attending certain hearings and administrative proceedings; prohibiting the use in a criminal proceeding of a statement or answer of a peace officer obtained during an investigation under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a law enforcement agency to conduct an investigation of a peace officer in response to a complaint or allegation that the peace officer has engaged in activities which may result in punitive action. Existing law prohibits the law enforcement agency from suspending the peace officer without pay during the investigation until all investigations relating to the matter have concluded. (NRS 289.057) **Section 1** of this bill prohibits the law enforcement agency from suspending the peace officer without pay except as otherwise provided in a collective bargaining agreement.

Existing law requires a law enforcement agency to notify a peace officer not later than 48 hours before conducting any interrogation or hearing relating to an investigation of the peace officer. (NRS 289.060) **Section 1.5** of this bill imposes additional requirements by requiring the law enforcement agency to provide a written notice to any other peace officer the law enforcement agency believes has any knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation. The written notice must advise the peace officer that he or she must appear and be interviewed as a witness in connection with the investigation. **Section 1.5** also limits the use of certain evidence discovered during the course of an investigation or hearing and prohibits the use of certain statements or answers made by a peace officer in any subsequent criminal proceeding.

~~[Finally, existing]~~ **Existing** law **further** provides that, if a peace officer is the subject of an investigation of alleged misconduct, a law enforcement agency must interrogate the peace officer during his or her regular working hours, if practical, or compensate the peace officer for his or her time based on the peace officer's wages, if no charges arise from the interrogation. (NRS 289.060) **Section 1.5** of this bill deletes the requirement for the payment of compensation to the peace officer and instead requires the law enforcement agency to revise the peace officer's work schedule to allow any time that is required for the interrogation to be deemed a part of the peace officer's regular working hours. If the law enforcement agency does not interrogate the peace officer during his or her regular working hours and the peace officer receives a notice to appear for an interrogation at a time that he or she is off duty, **section 1.5** requires the peace officer to be compensated for appearing at the interrogation based on his or her wages and any other benefits he or she is entitled to receive. **Section 1.5 also applies these provisions to a peace officer who is interviewed as a witness in connection with an investigation.**

Existing law authorizes a peace officer who is the subject of an investigation of alleged misconduct to have two representatives present during the interrogation and hearing concerning the investigation. Any such representative is required, except under certain circumstances, to keep all information he or she learns concerning the investigation confidential. (NRS 289.080) Section 1.7 of this bill authorizes a peace officer who is a witness in an investigation to have two representatives present during an interview conducted concerning the investigation. Section 1.7 also requires any such representative to keep all information he or she learns concerning the investigation confidential.

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

Section 1. NRS 289.057 is hereby amended to read as follows:

289.057 1. An investigation of a peace officer may be conducted in response to a complaint or allegation that the peace officer has engaged in activities which could result in punitive action.

2. ~~[A]~~ ***Except as otherwise provided in a collective bargaining agreement, a*** law enforcement agency shall not suspend a peace officer without pay during or pursuant to an investigation conducted pursuant to this section until all investigations relating to the matter have concluded.

3. After the conclusion of the investigation:

(a) If the investigation causes a law enforcement agency to impose punitive action against the peace officer who was the subject of the investigation and the peace officer has received notice of the imposition of the punitive action, the peace officer or a representative authorized by the peace officer may, except as otherwise prohibited by federal or state law, review any administrative or investigative file maintained by the law enforcement agency relating to the investigation, including any recordings, notes, transcripts of interviews and documents.

(b) If, pursuant to a policy of a law enforcement agency or a labor agreement, the record of the investigation or the imposition of punitive action is subject to being removed from any administrative file relating to the peace officer maintained by the law enforcement agency, the law enforcement agency shall not, except as otherwise required by federal or state law, keep or make a record of the investigation or the imposition of punitive action after the record is required to be removed from the administrative file.

Sec. 1.5. NRS 289.060 is hereby amended to read as follows:

289.060 1. Except as otherwise provided in this subsection, a law enforcement agency shall, not later than 48 hours before any interrogation or hearing is held relating to an investigation conducted pursuant to NRS 289.057, provide ***a*** written notice to the peace officer ~~[. A]~~ ***who is the subject of the investigation. If the law enforcement agency believes that any other peace officer has any knowledge of any fact relating to the complaint or allegation against the peace officer who is the subject of the investigation, the law enforcement agency shall provide a written notice to***

the peace officer advising the peace officer that he or she must appear and be interviewed as a witness in connection with the investigation. Any peace officer who serves as a witness during an interview must be allowed a reasonable opportunity to arrange for ~~*[a representative chosen by the peace officer to attend the interview with the peace officer. Such a representative must not include the peace officer who is the subject of the investigation or any other witness who the law enforcement agency believes may have knowledge of any fact relating to the investigation.]*~~ ***the presence and assistance of a representative authorized by NRS 289.080. Any*** peace officer ***specified in this subsection*** may waive the notice required pursuant to this section.

2. The notice ***provided to the peace officer who is the subject of the investigation*** must include:

(a) A description of the nature of the investigation;

(b) A summary of alleged misconduct of the peace officer ***:*** ~~*[and any other peace officer whom the law enforcement agency is investigating in connection with the complaint or allegation;]*~~

(c) The date, time and place of the interrogation or hearing;

(d) The name and rank of the officer in charge of the investigation and the officers who will conduct any interrogation ~~[,]~~ ***or hearing;***

(e) The name of any other person who will be present at any interrogation or hearing; and

(f) A statement setting forth the provisions of subsection 1 of NRS 289.080.

3. The law enforcement agency shall:

(a) ~~[Interrogate]~~ ***Interview or interrogate*** the peace officer during the peace officer's regular working hours, if reasonably practicable, or ~~[compensate the peace officer for that time based on the peace officer's regular wages if no charges arise from the interrogation.]~~ ***revise the peace officer's work schedule to allow any time that is required for the interview or interrogation*** ~~*[or for any hearing]*~~ ***to be deemed a part of the peace officer's regular working hours. Any such time must be calculated based on the peace officer's regular wages for his or her regularly scheduled working hours. If the peace officer is not interviewed or interrogated during his or her regular working hours or if his or her work schedule is not revised pursuant to this paragraph and the law enforcement agency notifies the peace officer to appear at a time when he or she is off duty, the peace officer must be compensated for appearing at the interview or interrogation based on the wages and any other benefits the peace officer is entitled to receive for appearing at the time set forth in the notice.***

(b) Immediately before ~~[the]~~ ***any*** interrogation or hearing begins, inform the peace officer ***who is the subject of the investigation*** orally on the record that:

(1) The peace officer is required to provide a statement and answer questions related to the peace officer's alleged misconduct; and

(2) If the peace officer fails to provide such a statement or to answer any such questions, the agency may charge the peace officer with insubordination.

(c) Limit the scope of the questions during the interrogation or hearing to the alleged misconduct of the peace officer ~~[.]~~ ***who is the subject of the investigation. If any evidence is discovered during the course of an investigation or hearing which establishes or may establish any other possible misconduct engaged in by the peace officer, the law enforcement agency shall notify the peace officer of that fact and shall not conduct any further interrogation of the peace officer concerning the possible misconduct until a subsequent notice of that evidence and possible misconduct is provided to the peace officer pursuant to this chapter.***

(d) Allow the peace officer ***who is the subject of the investigation or who is a witness in the investigation*** to explain an answer or refute a negative implication which results from questioning during an ***interview,*** interrogation or hearing.

4. If a peace officer provides a statement or answers a question relating to the alleged misconduct of a peace officer who is the subject of an investigation pursuant to NRS 289.057 after the peace officer is informed that failing to provide the statement or answer may result in punitive action against him or her, the statement or answer must not be used against the peace officer who provided the statement or answer in any subsequent criminal proceeding.

Sec. 1.7. **NRS 289.080 is hereby amended to read as follows:**

289.080 1. Except as otherwise provided in subsection ~~[3,]~~ ***4,*** a peace officer ***who is the subject of an investigation conducted pursuant to NRS 289.057*** may upon request have two representatives of the peace officer's choosing present with the peace officer during any phase of an interrogation or hearing relating to ~~[an]~~ ***the*** investigation ***,*** ~~[conducted pursuant to NRS 289.057,]~~ including, without limitation, a lawyer, a representative of a labor union or another peace officer.

2. ***Except as otherwise provided in subsection 4, a peace officer who is a witness in an investigation conducted pursuant to NRS 289.057 may upon request have two representatives of the peace officer's choosing present with the peace officer during an interview relating to the investigation, including, without limitation, a lawyer, a representative of a labor union or another peace officer. The presence of the second representative must not create an undue delay in either the scheduling or conducting of the interview.***

3. A representative of a peace officer must assist the peace officer during the ***interview,*** interrogation or hearing. The law enforcement agency conducting the ***interview,*** interrogation or hearing shall allow a representative of the peace officer to explain an answer provided by the peace officer or refute a negative implication which results from questioning of the peace

officer but may require such explanation to be provided after the agency has concluded its initial questioning of the peace officer.

~~[3.]~~ ***4.*** A representative must not otherwise be connected to, or the subject of, the same investigation.

~~[4.]~~ ***5.*** Any information that a representative obtains from the peace officer ***who is a witness*** concerning the investigation is confidential and must not be disclosed**.**

6. Any information that a representative obtains from the peace officer who is the subject of the investigation is confidential and must not be disclosed except upon the:

(a) Request of the peace officer; or

(b) Lawful order of a court of competent jurisdiction.

➥ A law enforcement agency shall not take punitive action against a representative for the representative's failure or refusal to disclose such information.

~~[5.]~~ ***7.*** The peace officer, any representative of the peace officer or the law enforcement agency may make a stenographic, digital or magnetic record of the ***interview,*** interrogation or hearing. If the agency records the proceedings, the agency shall at the peace officer's request and expense provide a copy of the:

(a) Stenographic transcript of the proceedings; or

(b) Recording on the digital or magnetic tape.

~~[6.]~~ ***8.*** After the conclusion of the investigation, the peace officer who was the subject of the investigation or any representative of the peace officer may, if the peace officer appeals a recommendation to impose punitive action, review and copy the entire file concerning the internal investigation, including, without limitation, any recordings, notes, transcripts of interviews and documents contained in the file.

Sec. 2. (Deleted by amendment.)

Sec. 3. 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. 800 to Assembly Bill No. 265 clarifies that a peace officer serving as a witness during an investigative interview must be allowed a reasonable opportunity to arrange for the presence and assistance of a representative.

It clarifies what is to be included in a notice for an investigative hearing. The amendment deletes "or for any hearing" as it relates to the circumstances under which a peace officer's work schedule may be revised for purposes of the investigative interview or interrogation.

It clarifies that a peace officer witness may, upon request, have up to two representatives of the peace officer's choosing at the interview and declares that any information a representative obtains from the peace officer who is a witness in an investigation is confidential and must not be disclosed; and adds the term "interview" throughout the bill to complement the terms "interrogation or hearing" and to codify what typically takes place in the administrative investigation process.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 504.

Bill read second time.

The following amendment was proposed by the Committee on Revenue:

Amendment No. 738.

"SUMMARY—Revises provisions governing delinquent taxes. (BDR 32-922)"

"AN ACT relating to taxation; requiring the Department of Taxation to provide an annual report to the Nevada Tax Commission of delinquent taxes owed to the Department; requiring the Nevada Tax Commission to request that the State Board of Examiners designate certain delinquent taxes owed to the Department as bad debt; **revising the interest rate for the payment of certain delinquent taxes;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ **Section 1 of this** bill requires the Department of Taxation to prepare and furnish an annual report to the Nevada Tax Commission that shows debts to the Department incurred by delinquent taxpayers during the immediately preceding year. ~~[This bill]~~ **Section 1** also requires the Department to include the amount of any delinquent taxes that the Department determines is impossible or impractical to collect. ~~[This bill]~~ **Section 1** further requires the Nevada Tax Commission to request that the State Board of Examiners designate any such amount of delinquent taxes as bad debt.

Sections 2 and 6 of this bill reduce the interest rate on the overpayment of certain taxes from 0.5 percent per month to 0.25 percent per month. Sections 3, 4 and 9 of this bill reduce the interest rate on late payments of certain taxes from 1 percent per month to 0.75 percent per month. Sections 5, 7, 8 and 10-12 of this bill reduce the interest rate on the overpayment of certain taxes and certain illegally collected taxes from 6 percent per annum to 3 percent per annum.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or before January 15 of each year, the Department shall prepare and furnish to the Nevada Tax Commission a report that shows all money owed to the Department for delinquent payments of any tax administered by the Department during the preceding year.

2. The Department shall include in the report prepared to pursuant to subsection 1 the amount of any delinquent taxes that the Department determines is impossible or impractical to collect.

3. If the Department determines that it is impossible or impractical to collect any amount of delinquent taxes, the Nevada Tax Commission shall

request that the State Board of Examiners designate such amount as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the delinquent taxes as a bad debt if the Board is satisfied that the collection of the delinquent taxes is impossible or impractical. If the amount of the delinquent taxes is not more than $50, the State Board of Examiners may delegate to its Clerk the authority to designate delinquent taxes as a bad debt. The Nevada Tax Commission may appeal to the State Board of Examiners a denial by the Clerk of a request to designate delinquent taxes as a bad debt.

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

5. The State Controller shall keep a master file of all delinquent taxes that are designated as bad debts pursuant to this section. For each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 2. **NRS 360.2937 is hereby amended to read as follows:**

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377 or 377A of NRS, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of ~~[0.5]~~ ***0.25*** percent per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 3. **NRS 360.295 is hereby amended to read as follows:**

360.295 Except as otherwise specifically provided in this title, if the Department grants an extension of the time for paying any amount required to be paid under this title, a person who pays the amount within the period for which the extension is granted shall pay, in addition to the amount owing, interest at the rate of ~~[1]~~ ***0.75*** percent per month from the date the amount would have been due without the extension until the date of payment.

Sec. 4. **NRS 360.417 is hereby amended to read as follows:**

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of ~~[1]~~ ***0.75*** percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 5. **NRS 361.420 is hereby amended to read as follows:**

361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.

2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may commence a suit in any court of competent jurisdiction in the State of Nevada against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.

3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State

Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.

4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:

(a) That the taxes have been paid before the suit;

(b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;

(c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;

(d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;

(e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;

(f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; or

(g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) and (g) of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court may provide for interest thereon not to exceed ~~[6]~~ ***3*** percent per annum from and after the date of payment of the tax complained of.

Sec. 6. **NRS 361.486 is hereby amended to read as follows:**

361.486 1. Except as otherwise provided in subsection 2 and NRS 361.485, interest must be paid on an overpayment of the taxes imposed by this chapter at the rate of ~~[0.5]~~ ***0.25*** percent per month, or fraction thereof, from the last day of the calendar month in which the overpayment was made to the last day of the calendar month in which a refund is made.

2. No interest is allowed:

(a) On a refund of any penalty or interest paid by a taxpayer; or

(b) If the ex officio tax receiver determines that the overpayment was made intentionally or by reason of carelessness.

Sec. 7. **NRS 363A.210 is hereby amended to read as follows:**

363A.210 In any judgment, interest must be allowed at the rate of ~~[6]~~ *3* percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

Sec. 8. **NRS 363B.200 is hereby amended to read as follows:**

363B.200 In any judgment, interest must be allowed at the rate of ~~[6]~~ *3* percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Department.

Sec. 9. **NRS 368A.230 is hereby amended to read as follows:**

368A.230 Upon written application made before the date on which payment must be made, the Board or the Department may, for good cause, extend by 30 days the time within which a taxpayer is required to pay the tax imposed by this chapter. If the tax is paid during the period of extension, no penalty or late charge may be imposed for failure to pay at the time required, but the taxpayer shall pay interest at the rate of ~~[1]~~ *0.75* percent per month from the date on which the amount would have been due without the extension until the date of payment, unless otherwise provided in NRS 360.232 or 360.320.

Sec. 10. **NRS 368A.310 is hereby amended to read as follows:**

368A.310 In any judgment, interest must be allowed at the rate of ~~[6]~~ *3* percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days. The date must be determined by the Board or the Department.

Sec. 11. **NRS 372.695 is hereby amended to read as follows:**

372.695 In any judgment, interest must be allowed at the rate of ~~[6]~~ *3* percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Department.

Sec. 12. **NRS 374.700 is hereby amended to read as follows:**

374.700 In any judgment, interest shall be allowed at the rate of ~~[6]~~ *3* percent per annum upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment, or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the Department.

~~[Sec. 2.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2011.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

This amendment was brought to the Committee on behalf of the Department of Taxation.

Amendment No. 738 to Assembly Bill No. 504 lowers the interest rate that is paid to the State by taxpayers for any late payment or underpayment of taxes administered by the Department of Taxation. The amendment lowers the interest rate paid to the State from 1 percent per month or 12 percent annually, to 0.75 percent per month or 9 percent annually.

The amendment also lowers the interest rate that is paid by the State to taxpayers for any overpayment or refund of taxes administered by the Department of Taxation. The amendment lowers the interest rate paid to taxpayers from 0.5 percent per month or 6 percent annually to 0.25 percent per month or 3 percent annually.

The lower interest rates would apply prospectively to both new and existing deficiencies or refund claims.

This adjustment was made in order to better reflect current economic conditions.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Horsford moved that the Senate recess until 12 p.m.

Motion carried.

Senate in recess at 10:51 a.m.

SENATE IN SESSION

At 12:11 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Select Committee on Economic Growth and Employment, to which was referred Assembly Bill No. 202, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

RUBEN J. KIHUEN, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 208; Assembly Bills Nos. 199, 240, 301, 360, be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Wiener moved that Senate Joint Resolution No. 15 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 223, 260, 291, 299, 410, be taken from the General File and placed on the Secretary's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 231.

Bill read third time.

Remarks by Senators Lee and Leslie.

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

SENATOR LEE:

Senate Bill No. 231 authorizes a person who holds a concealed weapon permit to carry a concealed firearm while on the property of the Nevada System of Higher Education (NSHE) except while attending any event held at a sporting venue with a seating capacity of 1,000 or more that is located on NSHE property. The Board of Regents must establish policies and procedures regarding how to implement this restriction in relation to parking and gathering for such dormitories or residence halls located on NSHE property. Finally, Senate Bill No. 231 authorizes a county sheriff and the police department for NSHE to provide to concealed weapon permit holders information concerning instructors and organizations that offer courses in firearm safety which focus on issues relating to firearm safety in an educational environment.

This bill will go to the Assembly. There are some modifications that might take place on this bill.

SENATOR LESLIE:

Thank you, Mr. President. This bill prevents the System of Higher Education from setting policies concerning concealed weapons on campus. Currently, if you want to carry a concealed weapon and you have a good reason, you can go to the System, and you can request the ability to do so. It may or may not be granted. That policy is currently in place. This bill would force NSHE to revoke all policies that monitor the presence of concealed weapons on its campuses.

The main argument in favor of the bill seems to be that the bill is necessary for public safety. However, numerous studies of the issue of gun safety on campus have found just the opposite, including the official report of the Virginia Tech inquiry following the tragic shooting there in 2007. That report suggested the best way to ensure safety on campus is to reduce the number, or prevent entirely, the presence of unauthorized guns on campus. The Brady Center, which researches gun safety, has also produced a lengthy report on campus gun safety and found such measures as Senate Bill No. 231 increase the risk of a violent event on campus.

Closer to home, our own criminologists at the University of Nevada Las Vegas (UNLV) have analyzed the pros and cons of this bill in an empirical fashion and found the arguments in favor of this bill do not hold up.

Assumption number 1 is that more guns leads to less crime. There is no sound empirical evidence to support this claim.

Assumption number 2 is that violent offenders are rational and will be deterred by armed students. The typical mass murderer in school shootings is often so mentally impaired that he is unable to make rational decisions. Many are already prepared to die for their acts, so the supposed deterrent of armed students is of no use. In addition, the ability of a non-professional to use a firearm to terminate an attack is severely limited by the spontaneity, unpredictability, and gravity of violent situations.

Assumption number 3 is that the benefits of arming students exceed the costs. Science shows there are collateral consequences to increased gun presence on campus including, an increase in deaths and serious injuries due to accidental discharge of weapons or overreaction to violent situations in public places. There is an increased risk of death and injury to fellow students and faculty from "friendly fire" during the state of chaos of a violent attack in a public place.

Assumption number 4 is even more basic. College campuses are dangerous places. This is not true. College students are about 20 times more likely to be victimized by a violent crime when they are away from campus than when they are on campus. Nearly 94 percent of violent incidents involving college students occur away from campus.

The criminologists concluded that there are many scientifically based "best practices," regarding crime prevention that would be far more effective if we are trying to make schools safer from violence.

In short, there is simply no need for this bill, but there is much danger in it. I urge you to vote "no."

SENATOR LEE:

The average age of a person in higher education is 24 years old. You cannot have a concealed weapon permit unless you are 21 years old, a non-felon, and you have experience with a gun and you have been trained and have qualified to have it. Then you have to requalify every five years.

The interesting thing about the first point the Senator brought up is that only one person at the campus at UNR has ever been authorized to carry a concealed weapon. She was Amanda Collins, who was raped 100 yards from the police substation on campus. Predators realize these are defenseless-victim zones. There is nothing there that can allow these students, who leave class late at night, to have a sense of security. Even though a student might not carry or have a concealed weapon, this bill would send a message to people who victimize in this area that someone could have a firearm to protect themselves. A female, leaving a class at night, may avail themselves of the program where you can call a security officer to come to your class and take you to edge of the campus property. I do not believe they escort you to your car if it is off site. Sometimes a student might have to wait 20 minutes for that assistance.

There is another program in the Higher Education System that teaches you how to protect yourself when there is a shooter on campus. You are supposed to immediately lock the door, hide in the farthest corner with everyone lying on each other while someone calls 911. We have better systems than that to protect ourselves. This bill does not allow you as a concealed weapon holder to become part of the police force on campus, but it does allow you the chance to protect yourself from an aggressor, a rapist or a killer who might come towards you.

Most people with a concealed weapon permit carry the gun for the first 30 days, then after that they store it in their car, then they worry someone might steal it, so they store it at home in a safe. It is at those times when a person feels a need to be protected, such as while taking a late class at the University, that this will allow a person some personal protection. I ask each member here to consider the fact that if it was late at night and you were walking in an unlit area, would you rather have the safety of this piece of armament or just your hands as a defense? I ask you to consider this as you vote.

Roll call on Senate Bill No. 231:

YEAS—15.

NAYS—Breeden, Horsford, Kihuen, Leslie, Schneider, Wiener—6.

Senate Bill No. 231 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 98.

Bill read third time.

Roll call on Assembly Bill No. 98:

YEAS—21.

NAYS—None.

Assembly Bill No. 98 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 198.

Bill read third time.

Roll call on Assembly Bill No. 198:

YEAS—21.

NAYS—None.

Assembly Bill No. 198 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 304.

Bill read third time.

Roll call on Assembly Bill No. 304:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, McGinness, Roberson, Settelmeyer—7.

Assembly Bill No. 304 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Joint Resolution No. 15; Assembly Bills Nos. 308, 393, 398, 419, 500, 501, 519, 521, 545, be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Horsford moved that the Senate recess until 3 p.m.

Motion carried.

Senate in recess at 12:28 p.m.

SENATE IN SESSION

At 3:59 p.m.

President Krolicki presiding.

Quorum present.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 28, 2011

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 37, 97, 152, 182, 201, 226, 277, 317, 420, 444, 450, 481; Assembly Bills Nos. 570, 573.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 128, Amendment No. 660; Senate Bill No. 190, Amendment No. 721; Senate Bill No. 210, Amendment No. 702; Senate Bill No. 221, Amendment No. 743; Senate Bill No. 234, Amendment No. 669; Senate Bill No. 237, Amendment No. 638; Senate Bill No. 246, Amendment No. 703; Senate Bill No. 273, Amendment No. 718; Senate Bill No. 300, Amendment No. 712; Senate Bill No. 323, Amendment No. 672; Senate Bill No. 339, Amendment No. 711; Senate Bill No. 358, Amendment No. 642; Senate Joint Resolution No. 3, Amendment No. 627, and respectfully requests your honorable body to concur in said amendments.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 207 be placed on the Second Reading File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 570.

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

Motion carried.

Assembly Bill No. 573.

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

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 308.

Bill read third time.

Roll call on Assembly Bill No. 308:

YEAS—21.

NAYS—None.

Assembly Bill No. 308 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 393.

Bill read third time.

Remarks by Senator Denis.

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

Assembly Bill No. 393 requires an applicant for renewal of a license in education to undergo a criminal background investigation, which includes the processing of the applicant's fingerprints by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation. The Commission on Professional Standards in Education must set the fees for renewal of a license to include the fees for processing the fingerprints. The measure also requires that school district boards of trustees and charter school governing bodies adopt policies for self-reporting by their licensed educators concerning arrests for, or convictions of certain crimes. The policy must include: the crimes that must be reported; the person to whom the report must be made; and the time period within which the report must be made.

We heard this measure in Committee. We offered an amendment. We found out that none of the school districts that we know of have policies for self reporting. If a teacher is arrested, they have no way to self report. This will help in that it also requires they do the fingerprints more often. I urge your support.

Roll call on Assembly Bill No. 393:

YEAS—21.

NAYS—None.

Assembly Bill No. 393 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 398.

Bill read third time.

Roll call on Assembly Bill No. 398:
YEAS—21.
NAYS—None.

Assembly Bill No. 398 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 419.
Bill read third time.
Roll call on Assembly Bill No. 419:
YEAS—21.
NAYS—None.

Assembly Bill No. 419 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 500.
Bill read third time.
Roll call on Assembly Bill No. 500:
YEAS—21.
NAYS—None.

Assembly Bill No. 500 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 501.
Bill read third time.
Roll call on Assembly Bill No. 501:
YEAS—11.
NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—10.

Assembly Bill No. 501 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 519.
Bill read third time.
Roll call on Assembly Bill No. 519:
YEAS—21.
NAYS—None.

Assembly Bill No. 519 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 521.
Bill read third time.

Roll call on Assembly Bill No. 521:
YEAS—21.
NAYS—None.

Assembly Bill No. 521 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Rhoads moved that Senate Joint Resolution No. 15 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 545.

Bill read third time.

Roll call on Assembly Bill No. 545:
YEAS—20.
NAYS—None.
NOT VOTING—Halseth.

Assembly Bill No. 545 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
RECEDE FROM SENATE AMENDMENTS

Senator Wiener moved that the Senate do not recede from its action on Assembly Bill No. 282, that a conference be requested, and that Mr. President appoint a Conference Committee consisting of three members to meet with a like committee of the Assembly.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Kihuen, McGinness and Copening as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 282.

SECOND READING AND AMENDMENT

Senate Bill No. 207.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 814.

"SUMMARY—Authorizes the imposition of an administrative penalty against an employer ~~[who misclassifies an employee as an independent contractor.]~~ **under certain circumstances.** (BDR 53-165)"

"AN ACT relating to employment; authorizing the imposition of an administrative penalty against an employer who misclassifies an employee as an independent contractor ~~[,]~~ **or otherwise fails to properly classify a**

person as an employee of the employer under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Labor Commissioner is required to enforce the labor laws and regulations of the State of Nevada. In carrying out that requirement, the Labor Commissioner may take any appropriate action against a person who violates those laws or regulations. Before enforcing an administrative penalty against the person, the Labor Commissioner is required to provide the person with notice and an opportunity for a hearing. (NRS 607.160) ~~[This]~~ **Section 1 of this** bill confers upon the Labor Commissioner the authority to impose an administrative penalty against an employer who **~~[~~**~~, regardless of the employer's intent,~~**~~]~~** misclassifies an employee as an independent contractor **~~[~~**~~. This bill~~**~~]~~** **or otherwise fails to properly classify a person as an employee of the employer. Section 1** sets forth the required amount of any administrative penalty imposed by the Labor Commissioner against the employer and, if the violation is a third or subsequent offense, requires the Secretary of State to revoke or suspend the state business license of the employer for not more than 3 years as determined by the Labor Commissioner. ~~[This bill]~~ **Section 1 also** authorizes the Labor Commissioner to impose the administrative penalty against the employer if the employer fails to prove to the satisfaction of the Labor Commissioner that the employee is not misclassified as an independent contractor **~~[~~**~~.~~**~~]~~** **or the employer did not otherwise fail to properly classify the person as an employee of the employer.**

Under existing law, an employer is required to post a notice upon his or her premises identifying the employer's industrial insurer and setting forth certain other information concerning the employer. (NRS 616A.490) Section 2 of this bill requires the employer to include in the notice the definitions of the terms "employee" and "independent contractor."

Section 3 of this bill subjects a person to liability in a civil action brought by the Attorney General if the person advises an employer or an employee, officer or agent of an employer to misrepresent the classification of an employee of the employer. Section 3 also subjects the person to liability for an amount that is equal to three times the total amount of any reasonable expenses incurred by this State in enforcing the provisions of that section against the person.

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

Section 1. Chapter 613 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any other remedy or penalty, the Labor Commissioner may impose an administrative penalty against an employer who ***~~[~~***~~, regardless of the intent of the employer,~~***~~]~~*** ***misclassifies an employee of the employer as an independent contractor*** ***~~[~~***~~.~~***~~]~~*** ***or otherwise fails to properly***

classify a person as an employee of the employer. If imposed, the administrative penalty must be collected in the following amounts as determined by the Labor Commissioner:

(a) For a first offense [, at] :

(1) At least $250 but less than $1,000 for each employee or person who is misclassified unintentionally or is otherwise not properly classified unintentionally.

(2) At least $5,000 but less than $15,000 for each employee or person who is misclassified [,] willfully or is otherwise not properly classified willfully.

(b) For a second offense, at least $15,000 but less than $25,000 for each employee or person misclassified [,] or otherwise not properly classified.

(c) For a third or subsequent offense, at least $25,000 for each employee or person misclassified [,] or otherwise not properly classified.

2. In addition to imposing an administrative penalty against an employer pursuant to paragraph (c) of subsection 1, the Labor Commissioner may submit a notice to the Secretary of State requiring the revocation or suspension of the state business license, if any, issued to the employer pursuant to chapter 76 of NRS. The Labor Commissioner shall provide a copy of the notice to the employer. If a state business license is issued to the employer, the Secretary of State shall, as soon as practicable after receiving the notice, revoke or suspend the state business license for not more than 3 years as specified in the notice.

3. Before the Labor Commissioner may enforce an administrative penalty against an employer pursuant to this section, the Labor Commissioner must provide the employer with notice and an opportunity for a hearing as set forth in NRS 607.207. The Labor Commissioner may impose the administrative penalty against the employer if the employer, during any such hearing, fails to prove to the satisfaction of the Labor Commissioner that [the] :

(a) The employee is not misclassified as an independent contractor [,] ; or

(b) The employer did not otherwise fail to properly classify the person as an employee of the employer,

➥ as applicable.

4. As used in this section:

(a) "Employee" has the meaning ascribed to it in NRS 608.010.

(b) "Employer" has the meaning ascribed to it in NRS 608.011.

(c) [A person is an "independent] "Independent contractor" [if:]

~~(1) The person performs services for wages on behalf of an employer;~~

~~(2) The person has been and will continue to be free from control or direction by the employer over the performance of the services, both under a contract of service and in fact;~~

~~*(3) The service is either outside the usual course of the employer's business or the service is performed outside of all the places of business of the employer for whom the service is performed; and*~~

~~*(4) The service is performed in the course of an independently established trade, occupation, profession or business in which the person is customarily engaged and which is of the same nature as that involved in the contract of service.]*~~ ***has the meaning ascribed to it in NRS 616A.255.***

Sec. 2. **NRS 616A.490 is hereby amended to read as follows:**

616A.490 ***1.*** Every employer shall post a notice upon his or her premises in a conspicuous place identifying the employer's industrial insurer. The notice must include the insurer's name, business address and telephone number and the name, business address and telephone number of its nearest adjuster in this State. The employer shall at all times maintain the notice provided for the information of his or her employees.

2. In addition to the provisions of subsection 1, each notice posted pursuant to that subsection must prominently set forth the definition of "employee," as defined in NRS 616A.105, and the definition of "independent contractor," as defined in NRS 616A.255.

Sec. 3. **Chapter 616D of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A person who, for money or other valuable consideration, knowingly advises an employer or any employee, officer or agent of an employer to misrepresent the classification or duties of an employee of the employer, including, without limitation, misrepresenting that the employee is an independent contractor, is liable in a civil action commenced by the Attorney General for:

(a) Not more than $5,000 for the first occurrence;

(b) Not more than $15,000 for the second occurrence; and

(c) Not more than $25,000 for the third or any subsequent occurrence.

2. In addition to any amount imposed pursuant to subsection 1, in any civil action against a person specified in that subsection, the person is liable for an amount that is equal to three times the total amount of any reasonable expenses incurred by this State in enforcing the provisions of this section against the person.

3. Any money collected pursuant to this section must be used to pay the salaries and other expenses of the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420. Any money remaining at the end of any fiscal year does not revert to the State General Fund.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Senate Bill No. 207, as amended, revises Chapter 613 of *Nevada Revised Statutes* and gives the Labor Commissioner the authority to impose an administrative penalty against an employer who misclassifies an employee as an independent contractor or misclassifies a person as an

employee of the employer. This bill requires the Secretary of State to suspend or revoke the business license of the employer on the third or subsequent infraction of this law.

This bill also requires the employer to post a notice upon his or her premises to include the definitions of the terms "employee" and "independent contractor." Finally, the bill subjects a person to liability in a civil action brought by the Attorney General if the person advises an employer or an employee, officer or agent of an employer to misrepresent the classification of an employee of the employer. This bill becomes effective on October 1, 2011.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senator Horsford moved that the Senate recess until 6 p.m.

Motion carried.

Senate in recess at 4:17 p.m.

SENATE IN SESSION

At 7:43 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 376, 413, 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 Judiciary, to which was referred Assembly Bill No. 273, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that all necessary rules be suspended, and that Assembly Bill No. 273 just reported out of committee be placed on Second Reading for this legislative day.

Motion carried unanimously.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 376 just reported out of committee be placed on Second Reading for this legislative day.

Motion carried unanimously.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 413 just reported out of committee be placed on Second Reading for this legislative day.

Motion carried unanimously.

SECOND READING AND AMENDMENT

Assembly Bill No. 273.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 679.

"SUMMARY—Revises provisions governing deficiencies existing after foreclosure sales and sales in lieu of foreclosure sales. (BDR 3-561)"

"AN ACT relating to real property; revising provisions governing the amount which a person holding a junior lien on real property may recover in a civil action under certain circumstances; prohibiting certain persons holding a junior lien on certain residential property from bringing a civil action under certain circumstances; revising provisions governing the amount of a deficiency judgment after the foreclosure of a mortgage or a deed of trust; limiting the amount of certain judgments against guarantors, sureties or other obligors of obligations secured by real property under certain circumstances; 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. Existing law requires a judgment creditor or beneficiary of a deed of trust to bring an action for such a deficiency judgment within 6 months after the foreclosure sale or trustee's sale. 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)

Sections 3, 3.3 and 5.7 of this bill enact similar provisions to govern deficiency judgments sought by junior lienholders after a foreclosure sale, a trustee's sale or any sale or deed in lieu of a foreclosure sale or trustee's sale. **Section 3** provides that, if the circumstances prohibiting a deficiency judgment after a foreclosure sale or trustee's sale under current law exist with respect to a junior lienholder, the creditor may not bring a civil action to recover the debt owed to it after a foreclosure sale, a trustee's sale or a sale or deed in lieu of a foreclosure sale or trustee's sale.

Existing law authorizes a creditor under an obligation secured by a junior mortgage or deed of trust to bring an action to obtain a personal judgment against the debtor only if the action is commenced within 6 years after the date of the debtor's default. (NRS 11.190) Under **sections 3.3 and 5.7** of this bill, if the real property securing such an obligation is the subject of a foreclosure sale, a trustee's sale or a sale or deed in lieu of such a sale, the creditor may bring an action to obtain a personal judgment against the debtor

only if the action is brought within 6 months after the foreclosure sale, the trustee's sale or the sale in lieu of a foreclosure sale or trustee's sale.

Under existing law, the amount of a deficiency judgment after a foreclosure sale or a trustee's sale may not exceed the lesser of: (1) the amount of the indebtedness minus the fair market value of the foreclosed property at the time of the sale; or (2) the amount of the indebtedness minus the amount for which the foreclosed property actually sold. (NRS 40.459) **Section 5** of this bill provides that, for a deficiency judgment sought by a secured creditor after a foreclosure sale, trustee's sale or sale in lieu of a foreclosure sale or trustee's sale, the amount of the deficiency judgment must be reduced by the amount of any insurance proceeds received by, or payable to, the creditor. **Section 2** of this bill enacts a corresponding provision for money judgments sought against a debtor by a junior lienholder after a foreclosure sale, a trustee's sale or a sale or deed in lieu of a foreclosure sale or trustee's sale.

Sections 2 and 5 also limit the recovery of a creditor who acquired the right to obtain payment for an obligation secured by the real property from another person who owned that obligation. If the creditor is seeking a deficiency judgment after a foreclosure sale, a trustee's sale or a sale in lieu of a foreclosure sale or trustee's sale, **section 5** provides that the creditor may not a receive an amount which exceeds the lesser of: (1) the consideration paid for the obligation minus the fair market value of the property at the time of the foreclosure sale, with interest from the date of sale and reasonable costs; or (2) the consideration paid for the obligation minus the amount for which the property actually sold, with interest from the date of sale and reasonable costs. If the creditor is a junior lienholder who filed a civil action to obtain a money judgment against the debtor, **section 2** provides that the creditor may not receive an amount greater than the consideration paid for the obligation, with interest from the date on which the person acquired the right to obtain payment and reasonable costs.

Section 5.5 of this bill limits the amount of a judgment against a guarantor, surety or other obligor, other than a mortgagor or grantor of a deed of trust, in an action commenced before a foreclosure sale or trustee's sale to enforce the obligation to pay, satisfy or purchase all or part of an obligation secured by a mortgage or other lien on real property. Under **section 5.5**, the amount of the judgment may not exceed the lesser of: (1) the amount of the indebtedness minus the fair market value of the real property at the time of the commencement of the action; or (2) if a foreclosure sale or a trustee's sale is completed before the date on which judgment is entered, the amount of the indebtedness minus the amount for which the foreclosed property actually sold.

Section 6 of this bill provides that the amendatory provisions of ~~[this bill]~~ **: (1) sections 1-3** apply only prospectively to obligations secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this bill ~~[.]~~ **; (2) sections 3.3 and 5.7 apply only to an**

action commenced after a foreclosure sale or sale in lieu of a foreclosure sale that occurs on or after July 1, 2011; and (3) section 5.5 apply only to an action against a guarantor, surety or other obligor commenced on or after the effective date of this bill. Under section 7 of this bill, the amendatory provisions of section 5 become effective upon passage and approval and thus apply to a deficiency judgment awarded on or after that effective date.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.2 to 3.3, inclusive, of this act.

Sec. 1.2. ***As used in sections 1.2 to 3.3, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 1.4, 1.6 and 1.8 of this act have the meanings ascribed to them in those sections.***

Sec. 1.4. ***"Foreclosure sale" has the meaning ascribed to it in NRS 40.462.***

Sec. 1.6. ***"Mortgage or other lien" has the meaning ascribed to it in NRS 40.433.***

Sec. 1.8. ***"Sale in lieu of a foreclosure sale" means a sale of real property pursuant to an agreement between a person to whom an obligation secured by a mortgage or other lien on real property is owed and the debtor of that obligation in which the sales price of the real property is insufficient to pay the full outstanding balance of the obligation and the costs of the sale. The term includes, without limitation, a deed in lieu of a foreclosure sale.***

Sec. 2. ***1. If a person to whom an obligation secured by a junior mortgage or lien on real property is owed:***

(a) Files a civil action to obtain a money judgment against the debtor under that obligation after a foreclosure sale or a sale in lieu of a foreclosure sale; and

(b) Such action is not barred by NRS 40.430,

➥ in determining the amount owed by the debtor, the court shall not include the amount of any proceeds received by, or payable to, the person pursuant to an insurance policy to compensate the person for losses incurred with respect to the property or the default on the obligation.

2. If:

(a) A person acquired the right to enforce an obligation secured by a junior mortgage or lien on real property from a person who previously held that right;

(b) The person files a civil action to obtain a money judgment against the debtor after a foreclosure sale or a sale in lieu of a foreclosure sale; and

(c) Such action is not barred by NRS 40.430,

➥ ***the court shall not render judgment for more than the amount of the consideration paid for that right, plus interest from the date on which the person acquired the right and reasonable costs.***

3. As used in this section, "obligation secured by a junior mortgage or lien on real property" includes, without limitation, an obligation which is not currently secured by a mortgage or lien on real property if the obligation:

(a) Is incurred by the debtor under an obligation which was secured by a mortgage or lien on real property; and

(b) Has the effect of reaffirming the obligation which was secured by a mortgage or lien on real property.

Sec. 3. ***1. A person to whom an obligation secured by a junior mortgage or lien on real property is owed may not bring any action to enforce that obligation after a foreclosure sale of the real property which secured that obligation or a sale in lieu of a foreclosure sale if:***

(a) The person is a financial institution;

(b) The real property which secured the obligation 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 sale in lieu of a foreclosure sale;

(c) The debtor or grantor used the amount of the obligation to purchase the real property;

(d) The debtor or grantor continuously occupied the real property as the debtor's or grantor's principal residence after securing the obligation; and

(e) The debtor or grantor did not refinance the obligation after securing it.

2. As used in this section, "financial institution" has the meaning ascribed to it in NRS 363A.050.

Sec. 3.3. ***A civil action not barred by NRS 40.430 or section 3 of this act by a person to whom an obligation secured by a junior mortgage or lien on real property is owed to obtain a money judgment against the debtor after a foreclosure sale of the real property or a sale in lieu of a foreclosure sale may only be commenced within 6 months after the date of the foreclosure sale or sale in lieu of a foreclosure.***

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 40.459 is hereby amended to read as follows:

40.459 ***1.*** After the hearing, the court shall award a money judgment against the debtor, guarantor or surety who is personally liable for the debt. The court shall not render judgment for more than:

~~[1.]~~ ***(a)*** The amount by which the amount of the indebtedness which was secured exceeds the fair market value of the property sold at the time of the sale, with interest from the date of the sale; ~~[or~~

~~—2.]~~ ***(b)*** The amount which is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured, with interest from the date of sale ~~[.]~~ ***; or***

(c) If the person seeking the judgment acquired the right to obtain the judgment from a person who previously held that right, the amount by which the amount of the consideration paid for that right exceeds the fair market value of the property sold at the time of sale or the amount for which the property was actually sold, whichever is greater, with interest from the date of sale and reasonable costs,

➥ whichever is the lesser amount.

2. For the purposes of this section, the "amount of the indebtedness" does not include any amount received by, or payable to, the judgment creditor or beneficiary of the deed of trust pursuant to an insurance policy to compensate the judgment creditor or beneficiary for any losses incurred with respect to the property or the default on the debt.

Sec. 5.5. NRS 40.495 is hereby amended to read as follows:

40.495 1. The provisions of NRS 40.475 and 40.485 may be waived by the guarantor, surety or other obligor only after default.

2. Except as otherwise provided in subsection ~~[4,]~~ ***5,*** a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, may waive the provisions of NRS 40.430. If a guarantor, surety or other obligor waives the provisions of NRS 40.430, an action for the enforcement of that person's obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon real property may be maintained separately and independently from:

(a) An action on the debt;

(b) The exercise of any power of sale;

(c) Any action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby; and

(d) Any other proceeding against a mortgagor or grantor of a deed of trust.

3. If the obligee maintains an action to foreclose or otherwise enforce a mortgage or lien and the indebtedness or obligations secured thereby, the guarantor, surety or other obligor may assert any legal or equitable defenses provided pursuant to the provisions of NRS 40.451 to 40.463, inclusive.

4. ***If, before a foreclosure sale of real property, the obligee commences an action against a guarantor, surety or other obligor, other than the mortgagor or grantor of a deed of trust, to enforce an obligation to pay, satisfy or purchase all or part of an indebtedness or obligation secured by a mortgage or lien upon the real property*** ~~*[, the court:*~~

~~*(a) Must]*~~ **:**

(a) The court must hold a hearing and take evidence presented by either party concerning the fair market value of the property as of the date of the commencement of the action. Notice of such hearing must be served upon all defendants who have appeared in the action and against whom a judgment is sought, or upon their attorneys of record, at least 15 days before the date set for the hearing.

(b) After the hearing, if the court ~~[shall award]~~ awards a money judgment against the debtor, guarantor or surety who is personally liable for the debt ~~[. The]~~ , the court must not render judgment for more than:

(1) The amount by which the amount of the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action; or

(2) If a foreclosure sale is concluded before a judgment is entered, the amount that is the difference between the amount for which the property was actually sold and the amount of the indebtedness which was secured,

➥ whichever is the lesser amount.

5. The provisions of NRS 40.430 may not be waived by a guarantor, surety or other obligor if the mortgage or lien:

(a) Secures an indebtedness for which the principal balance of the obligation was never greater than $500,000;

(b) Secures an indebtedness to a seller of real property for which the obligation was originally extended to the seller for any portion of the purchase price;

(c) Is secured by real property which is used primarily for the production of farm products as of the date the mortgage or lien upon the real property is created; or

(d) Is secured by real property upon which:

(1) The owner maintains the owner's principal residence;

(2) There is not more than one residential structure; and

(3) Not more than four families reside.

6. As used in this section, "foreclosure sale" has the meaning ***ascribed to it in NRS 40.462.***

Sec. 5.7. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, ***and section 3.3 of this act,*** actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause

of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without the owner's fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution or other lender because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution or other lender of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his or her official capacity and in virtue of his or her office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) An action to recover damages under NRS 41.740.

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his or her official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his or her official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 6. The amendatory provisions of **:**

1. Sections 1 to 3, inclusive, of this act apply only to an obligation secured by a mortgage, deed of trust or other encumbrance upon real property on or after the effective date of this act.

2. Sections 3.3 and 5.7 of this act apply only to an action commenced after a foreclosure sale or sale in lieu of a foreclosure sale that occurs on or after July 1, 2011.

3. Section 5.5 of this act apply only to an action against a guarantor, surety or other obligor commenced on or after the effective date of this act.

Sec. 7. 1. This **section and sections 1 to 3, inclusive, 5, 5.5 and 6 of this** act ~~[becomes]~~ **become** effective upon passage and approval.

2. Sections 3.3 and 5.7 of this act become effective on July 1, 2011.

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:

This amendment changes certain effective dates dealing with foreclosure sales and sales in lieu of foreclosure. It changes the effective date to upon passage and approval throughout sections of the bill.

SENATOR KIECKHEFER:

In Section 6, it made all of the provisions of the bill prospective and changes it so that some of the provisions in the bill are retrospective.

SENATOR WIENER:

In the hearing, some of the concerns were about retroactive applications of the bill. The clarity was provided through this amendment that all of the activities would be prospective because there were concerns about contracts.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 376.

Bill read second time.

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

Amendment No. 632.

"SUMMARY—Makes various changes regarding the financing of certain local improvements with revenue pledged from sales and use taxes. (BDR 21-148)"

"AN ACT relating to tourism improvement districts; making various changes regarding the financing of certain local improvements with revenue pledged from sales and use taxes; providing a procedure for the selection of subcontractors on certain contracts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID) and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 2** of this bill requires the independent auditing of claims made under agreements to provide such financing. **Section 2** also prohibits the use of such financing, with respect to a TID created on or after July 1, 2011, to pay various fees and costs and for the relocation within the TID of a retailer from another location within 3 miles outside of the boundary of the TID, and excludes the use for such financing of the tax revenue from such a retailer. **Section 6 of this bill prohibits the provision of such financing to certain governmental entities if a nongovernmental entity obtained any of the original financing in the TID, and prohibits such financing, without the consent of the entities which obtained the original financing in the TID, to an entity that did not obtain any of the original financing in the TID.** **Section 3** of this bill specifies the procedure required for the selection of subcontractors by contractors and developers who enter into certain construction contracts on financed projects or on property within a TID which benefits from financed infrastructure improvements. **Section 4** of this bill requires a municipality that creates a TID to prepare and submit to the Legislature annual reports regarding the TID, and requires the Department of Taxation to prepare and submit to the Legislature and the municipality semiannual reports regarding businesses within a TID. **Section ~~[6]~~ 7** of this bill applies the prevailing wage provisions applicable to public works to construction contracts for financed projects within a TID to the same extent as if the contracts were awarded by the municipality and the projects constituted public works.

Existing law does not allow the creation of a TID unless the pertinent governing body makes a written finding at a public hearing, based upon reports from independent consultants, as to whether the proposed project and financing will have a positive fiscal effect on the provision of local

governmental services. (NRS 271A.080) **Section 5** of this bill requires the selection of those independent consultants from a list provided by the Commission on Tourism.

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

Section 1. Chapter 271A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***The governing body of a municipality:***

1. Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.

2. Shall not, with respect to any district created on or after July 1, 2011, provide any financing or reimbursement pursuant to NRS 271A.120 for:

(a) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

(b) Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to the district from another location outside of and within 3 miles of the boundary of the district.

Sec. 3. ***1. Except as otherwise provided in subsection 2, a contractor or developer who enters into a contract for original construction or a contract for benefited construction shall:***

(a) Advertise for at least 7 calendar days for bids on each subcontract for the performance of any portion of the contract;

(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the governing body of the municipality;

(c) Make available to all prospective bidders on the subcontract a written set of plans and specifications for the pertinent work;

(d) Provide public notice of the name and address of each person who submits a bid on the subcontract; and

(e) After closing the period for the solicitation of bids and receiving at least three timely and responsive bids, select any subcontractor from those timely and responsive bids that the contractor or developer, in his or her sole discretion, determines to be appropriate, except that the contractor or developer shall ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS.

2. The provisions of subsection 1 do not apply to:

(a) Any contract which is awarded by a municipality; or

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1:

(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the municipality; and

(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.

4. As used in this section:

(a) "Contract for benefited construction":

(1) Except as otherwise provided in subparagraphs (2) and (3), means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any property which is located within a district and which benefits from any infrastructure improvements paid for in whole or in part:

(I) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(II) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

(2) Except as otherwise provided in subparagraph (3) and unless the work is paid for in whole or in part with any public funding, does not include any:

(I) Contract or other agreement for the improvement, repair, demolition or reconstruction of any project;

(II) Contract or other agreement with the original tenant of any leased property for any improvement of the property which is to be undertaken more than 60 months after the property is first made available for lease; or

(III) Contract or other agreement for the improvement of any leased property made with any tenant of the property other than the original tenant.

(3) Does not include any contract for original construction.

(b) "Contract for original construction" means any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(2) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

(c) "Original tenant" means the first tenant of any leased property after the property is first made available for lease.

Sec. 4. ***1. On or before September 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2011,***

shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for police protection and fire protection.

2. If the governing body of a municipality creates a district before, on or after July 1, 2011, the Department of Taxation shall:

(a) On or before April 1 and October 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, and to the governing body of the municipality a semiannual report which states:

(1) The amount of revenue from the taxable sales made each month by each business within the district;

(2) To the extent that the pertinent information is available, the portion of that revenue which is attributable to persons who are not residents of this State;

(3) The amount of the wages paid each month by each business within the district; and

(4) The number of full-time and part-time employees employed each month by each business within the district.

(b) Require each business within the district to report to the Department of Taxation, at such times as the Department may specify on a form provided by the Department, such information as the Department determines to be necessary to carry out the provisions of paragraph (a).

3. Except as otherwise provided in subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.

4. As used in this section, "taxable sales" means any sales that are taxable pursuant to chapter 372 of NRS.

Sec. 5. NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will

be maintaining a fixed place of business within that area on or within 120 days immediately preceding the date of the adoption of the ordinance.

2. The governing body has made a written finding at a public hearing that the project will benefit the district.

3. The governing body has made a written finding at a public hearing, based upon reports from independent consultants which were addressed to the governing body, to the board of county commissioners, if the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, and to the board of trustees of the school district in which the tourism improvement district is or will be located, as to whether the project and the financing thereof pursuant to this chapter will have a positive fiscal effect on the provision of local governmental services, after considering:

(a) The amount of the proceeds of all taxes and other governmental revenue projected to be received as a result of the properties and businesses expected to be located in the district;

(b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

(c) Any increase in costs for the provision of local governmental services, including, without limitation, services for education, including operational and capital costs, and services for police protection and fire protection, as a result of the project and the development of land within the district; and

(d) Estimates of any increases in the proceeds from sales and use taxes collected by retailers located outside of the district and of any displacement of the proceeds from sales and use taxes collected by those retailers, as a result of the properties and businesses expected to be located in the district.

➥ ***The reports required from independent consultants pursuant to this subsection must be obtained from independent consultants selected by the governing body from a list of independent consultants provided by the Commission on Tourism. For the purposes of this subsection, the Commission shall, upon the request of a governing body, provide the governing body with a list of at least three qualified independent consultants, each of whom must be located outside of this State.***

4. The governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of trustees of the school district in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services, including education.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the

written finding required by subsection 3, the board of trustees shall conduct a hearing regarding the fiscal effect on the school district, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

5. If the governing body is not the board of county commissioners for the county in which the tourism ***improvement*** district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

➥ After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

6. The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

7. The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection 6 will be attributable to transactions with tourists who are not residents of this State.

8. The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:

(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and

(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.

9. If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

➥ Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

Sec. 6. **NRS 271A.120 is hereby amended to read as follows:**

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or

refinance projects for the benefit of the district. Any such bonds or notes may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. Any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. Such an agreement is not subject to the limitations of subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

2. ***The governing body of a municipality shall not, with respect to any district created before, on or after July 1, 2011, provide any financing or reimbursement pursuant to this section:***

(a) Except as otherwise provided in this paragraph, to any governmental entity for any project within the district if any nongovernmental entity is or was entitled to receive any financing or reimbursement from the municipality pursuant to this section under the original financing agreements for the initial projects within the district. This paragraph does not prohibit the provision of such financing or reimbursement to:

(1) A school district; or

(2) A governmental entity that is or was entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

(b) To any person or other entity for any project within the district, other than a person or other entity that is or was entitled to receive such financing or reimbursement from the municipality under the original financing agreements for the initial projects within the district, without the consent of all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

3. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other

revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,

➥ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

~~[3.]~~ ***4.*** No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

~~[4.]~~ ***5.*** Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

~~[Sec. 6.]~~ ***Sec. 7.*** NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section ~~[,]~~ ***and section 3 of this act and*** notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. ~~[The provisions of NRS 338.010 to 338.090, inclusive, apply to]~~ ***A person who enters into*** any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

➥ ~~[regardless of whether the project is publicly or privately owned.]~~ ***shall include in the contract or other 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. The governing body of the municipality, the contractor who is awarded the contract or enters into the agreement to perform the construction, improvement, repair, demolition or reconstruction, and any subcontractor who performs any portion of the contract or agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body of the municipality had undertaken the project or had awarded the contract.***

4. The governing body of the municipality shall ensure that each contractor and developer to whom the provisions of section 3 of this act apply complies with those provisions.

~~[Sec. 7.]~~ ***Sec. 8.*** NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section or NRS 360.247 ~~[,]~~ ***or section 4 of this act,*** it is a misdemeanor for any member of the Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local

government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

~~[Sec. 8.]~~ ***Sec. 9.*** NRS 374.755 is hereby amended to read as follows:

374.755 1. Except as otherwise provided in this section or NRS 360.247 ~~[,]~~ ***or section 4 of this act,*** it is a misdemeanor for any member of the Nevada Tax Commission or officer, agent or employee of the Department to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Department.

2. The Nevada Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, however, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by any other person. The information so obtained pursuant to the order of the Governor may not be made public except to the extent and in the manner that the order may authorize that it be made public.

4. Upon written request made by a public officer of a local government, the Executive Director shall furnish from the records of the Department, the name and address of the owner of any seller or retailer who must file a return

with the Department. The request must set forth the social security number of the owner of the seller or retailer about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

5. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties.

6. Relevant information that the Nevada Tax Commission has determined is not proprietary or confidential information in a hearing conducted pursuant to NRS 360.247 may be disclosed as evidence in an appeal by the taxpayer from a determination of tax due.

7. At any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon a person a penalty for fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by the Commission, any member of the Commission or officer, agent or employee of the Department may publicly disclose the identity of that person and the amount of tax assessed and penalties imposed against that person.

~~[Sec. 9.]~~ ***Sec. 10.*** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

~~[Sec. 10.]~~ ***Sec. 11.*** 1. This section and sections 5 and ~~[9]~~ **10** of this act become effective upon passage and approval.

2. Sections 1 to 4, inclusive, **and** 6 ~~[, 7 and 8]~~ **to 9, inclusive,** of this act become 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. 632 to Assembly Bill No. 376 prohibits sales tax anticipated revenue financing, known as STAR bonds, to any governmental entity for any project within the Tourism Improvement District (TID) if any non-governmental entity is or was entitled to receive such financing under the original financing agreements for the initial projects in the TID. This proposed amendment would not prohibit such financing or reimbursement to a school district or to a governmental entity that is or was entitled to such financing under the original financing agreements.

It adds a stipulation that STAR bonds for any project not part of the original financing agreements must not be used without the consent of all the persons or entities that were entitled to receive such financing under the original agreements.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 413.

Bill read second time.

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

Amendment No. 631.

"SUMMARY—Revises provisions governing public works. (BDR 28-718)"

"AN ACT relating to public works; making various changes relating to the withholding of retainage on progress payments for public works contracts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a public body to withhold as retainage at least 10 percent of the progress payments owed to a contractor on a public works project during the first half of the project. (NRS 338.515) Similarly, contractors and subcontractors may withhold as retainage not more than 10 percent of progress payments to their subcontractors and suppliers during the first half of the public works project. (NRS 338.555, 338.595) **Sections 1, 3 and 5** of this bill revise the maximum amount of retainage that may be withheld during the first half of the project to 5 percent of the progress payment. **Sections 1, 3 and 5** also provide that, except under limited circumstances, the amount of retainage may not exceed 2.5 percent of progress payments during the second half of a public works project. **Section 1 also allows a public body to pay some or all of the retainage withheld during the first half of the project if satisfactory progress is being made in the work or if a subcontractor has completed its portion of the work.**

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

Section 1. NRS 338.515 is hereby amended to read as follows:

338.515 1. Except as otherwise provided in NRS 338.525, a public body and its officers or agents awarding a contract for a public work shall pay or cause to be paid to a contractor the progress payments due under the contract within 30 days after the date the public body receives the progress bill or within a shorter period if the provisions of the contract so provide. Not more than ~~[90]~~ ***95*** percent of the amount of any progress payment may be paid until 50 percent of the work required by the contract has been performed. ~~[Thereafter,]~~

2. After 50 percent of the work required by the contract has been performed, the public body may pay ~~[any]~~ ***to the contractor:***

(a) Any of the remaining progress payments without withholding additional retainage ***; and***

(b) Any amount of any retainage that was withheld from progress payments pursuant to subsection 1,

➥ if, in the opinion of the public body, satisfactory progress is being made in the work.

[2.] ***3. After determining in accordance with subsection 2 whether satisfactory progress is being made in the work, the public body may pay to the contractor an amount of any retainage that was withheld from progress payments pursuant to subsection 1 if:***

(a) A subcontractor has performed a portion of the work;

(b) The public body determines that the portion of the work has been completed in compliance with all applicable plans and specifications;

(c) The subcontractor submits to the contractor:

(1) A release of the subcontractor's claim for a mechanic's lien for the portion of the work; and

(2) From each of the subcontractor's subcontractors and suppliers who performed work or provided material for the portion of the work, a release of his or her claim for a mechanic's lien for the portion of the work; and

(d) The amount of the retainage which the public body pays is in proportion to the portion of the work which the subcontractor has performed.

4. If, pursuant to subsection 3, the public body pays to the contractor an amount of any retainage that was withheld from progress payments pursuant to subsection 1 for the portion of the work which has been performed by the subcontractor, the contractor must pay to the subcontractor the portion of any retainage withheld by the contractor pursuant to NRS 338.555 for the portion of the work. If, pursuant to this subsection, the contractor pays to the subcontractor the portion of any retainage withheld by the contractor pursuant to NRS 338.555 for the portion of the work which has been performed by the subcontractor, the subcontractor must pay to the subcontractor's subcontractors and suppliers the portion of any retainage withheld by the subcontractor pursuant to NRS 338.595 for the portion of the work.

5. If , after determining in accordance with subsection 2 whether satisfactory progress is being made in the work, the public body continues to withhold retainage from remaining progress payments:

(a) If the public body does not withhold any amount pursuant to NRS 338.525:

(1) The public body may not withhold more than 2.5 percent of the amount of any progress payment; and

(2) Before withholding any amount pursuant to subparagraph (1), the public body must pay to the contractor 50 percent of the amount of any retainage that was withheld from progress payments pursuant to subsection 1; or

(b) If the public body withholds any amount pursuant to NRS 338.525:

(1) The public body may not withhold more than 5 percent of the amount of any progress payment; and

(2) The public body may continue to retain the amount of any retainage that was withheld from progress payments pursuant to subsection 1.

~~*[3.]*~~ ***6.*** Except as otherwise provided in NRS 338.525, a public body shall identify in the contract and pay or cause to be paid to a contractor the actual cost of the supplies, materials and equipment that:

(a) Are identified in the contract;

(b) Have been delivered and stored at a location, and in the time and manner, specified in a contract by the contractor or a subcontractor or supplier for use in a public work; and

(c) Are in short supply or were specially made for the public work,

➥ within 30 days after the public body receives a progress bill from the contractor for those supplies, materials or equipment.

~~[3.]~~ ~~*[4.]*~~ ***7.*** A public body shall pay or cause to be paid to the contractor at the end of each quarter interest for the quarter on any amount withheld by the public body pursuant to NRS 338.400 to 338.645, inclusive, at a rate equal to the rate quoted by at least three insured banks, credit unions or savings and loan associations in this State as the highest rate paid on a certificate of deposit whose duration is approximately 90 days on the first day of the quarter. If the amount due to a contractor pursuant to this subsection for any quarter is less than $500, the public body may hold the interest until:

(a) The end of a subsequent quarter after which the amount of interest due is $500 or more;

(b) The end of the fourth consecutive quarter for which no interest has been paid to the contractor; or

(c) The amount withheld under the contract is due pursuant to NRS 338.520,

➥ whichever occurs first.

~~[4.]~~ ~~*[5.]*~~ ***8.*** If the Labor Commissioner has reason to believe that a worker is owed wages by a contractor or subcontractor, the Labor Commissioner may require the public body to withhold from any payment due the contractor under this section and pay the Labor Commissioner instead, an amount equal to the amount the Labor Commissioner believes the contractor owes to the worker. This amount must be paid by the Labor Commissioner to the worker if the matter is resolved in the worker's favor, otherwise it must be returned to the public body for payment to the contractor.

Sec. 2. NRS 338.530 is hereby amended to read as follows:

338.530 1. If a public body receives:

(a) A progress bill or retainage bill, fails to give a contractor a written notice of any withholding in the manner set forth in subsection 2 of

NRS 338.525, and does not pay the contractor within 30 days after receiving the progress bill or retainage bill; or

(b) A contractor's written notice of the correction of a condition set forth pursuant to subsection 2 of NRS 338.525 as the reason for the withholding, signed by an authorized agent of the contractor, and fails to:

(1) Pay the amount of the progress payment or retainage payment that was withheld from the contractor within 30 days after the public body receives the next progress bill or retainage bill; or

(2) Object to the scope and manner of the correction, within 30 days after the public body receives the notice of correction, in a written statement that sets forth the reason for the objection and is signed by an authorized agent of the public body,

➥ the public body shall pay to the contractor, in addition to the entire amount of the progress bill or retainage bill or any unpaid portion thereof, interest from the 30th day on the amount delayed, at a rate equal to the amount provided for in subsection ~~[3]~~ *~~[4]~~* *7* of NRS 338.515, until payment is made to the contractor.

2. If the public body objects pursuant to subparagraph (2) of paragraph (b) of subsection 1, it shall pay to the contractor an amount equal to the value of the corrections to which the public body does not object.

Sec. 3. NRS 338.555 is hereby amended to read as follows:

338.555 1. If a public body and a contractor enter into a contract for a public work, the contractor may withhold as retainage not more than ~~[10]~~ ***5*** percent from the amount of any progress payment due under a subcontract which is made before 50 percent of the work has been completed under the subcontract. ~~[Thereafter]~~

2. After 50 percent of the work required by the contract has been performed, the contractor shall pay any additional progress payments due under the subcontract without withholding any additional retainage if, in the opinion of the contractor, satisfactory progress is being made in the work under the subcontract, and the payment must be equal to that paid by the public body to the contractor for the work performed by the subcontractor.

~~[2.]~~ ***If the contractor continues to withhold retainage from remaining progress payments:***

(a) If the contractor does not withhold any amount pursuant to NRS 338.560:

(1) The contractor may not withhold more than 2.5 percent of the amount of any progress payment; and

(2) Before withholding any amount pursuant to subparagraph (1), the contractor must pay to the subcontractor 50 percent of the amount of any retainage that was withheld from progress payments pursuant to subsection 1; or

(b) If the contractor withholds any amount pursuant to NRS 338.560:

(1) The contractor may not withhold more than 5 percent of the amount of any progress payment; and

(2) The contractor may continue to retain the amount of any retainage that was withheld from progress payments pursuant to subsection 1.

3. If the contractor receives a payment of interest earned on the retainage or an amount withheld from a progress payment, the contractor shall, within 10 days after he or she receives the money, pay to each subcontractor or supplier that portion of the interest received from the public body which is attributable to the retainage or amount withheld from a progress payment by the contractor to the subcontractor or supplier.

Sec. 4. NRS 338.560 is hereby amended to read as follows:

338.560 1. A contractor may withhold from a progress payment or retainage payment an amount sufficient to pay:

(a) The expenses the contractor reasonably expects to incur as a result of the failure of his or her subcontractor or supplier to comply with the subcontract or applicable building code, law or regulation.

(b) An amount withheld from payment to the contractor by a public body pursuant to subsection ~~[4]~~ ~~*[5]*~~ ***8*** of NRS 338.515 for a claim for wages against the subcontractor.

2. A contractor shall, within 10 days after the contractor receives:

(a) A progress payment or retainage payment from the public body for an amount that is less than the amount set forth in the applicable progress bill or retainage bill; or

(b) A progress bill or retainage bill from his or her subcontractor or supplier,

➥ give a written notice to his or her subcontractor or supplier of any amount that will be withheld pursuant to this section.

3. The written notice must:

(a) Set forth:

(1) The amount of the progress payment or retainage payment that will be withheld from his or her subcontractor or supplier; and

(2) A detailed explanation of the reason the contractor will withhold that amount, including, without limitation, a specific reference to the provision or section of the subcontract, or documents related thereto, or applicable building code, law or regulation with which his or her subcontractor or supplier has failed to comply; and

(b) Be signed by an authorized agent of the contractor.

4. The contractor shall pay to his or her subcontractor or supplier the amount withheld by the public body or the contractor within 10 days after:

(a) The contractor receives a written notice of the correction of the condition that is the reason for the withholding, signed by an authorized agent of the subcontractor or supplier; or

(b) The public body pays to the contractor the amount withheld,

➥ whichever occurs later.

Sec. 5. NRS 338.595 is hereby amended to read as follows:

338.595 1. If a subcontractor and another subcontractor or supplier enter into a subcontract for a public work, the subcontractor may withhold as retainage not more than ~~[10]~~ ***5*** percent from the amount of any progress payment due under a subcontract which is made before 50 percent of the work has been completed under the subcontract. ~~[The]~~

2. After 50 percent of the work required by the subcontractor or supplier has been performed, the subcontractor shall pay any additional progress payments due under the subcontract without withholding any additional retainage if, in the opinion of the subcontractor, satisfactory progress is being made in the work under the subcontract. The payment must be equal to that paid by the contractor to the subcontractor for the work performed or supplies provided by his or her subcontractor or supplier.

~~[2.]~~ ***If the subcontractor continues to withhold retainage from remaining progress payments:***

(a) If the subcontractor does not withhold any amount pursuant to NRS 338.600:

(1) The subcontractor may not withhold more than 2.5 percent of the amount of any progress payment; and

(2) Before withholding any amount pursuant to subparagraph (1), the subcontractor must pay to the subcontractor or supplier 50 percent of the amount of any retainage that was withheld from progress payments pursuant to subsection 1; or

(b) If the subcontractor withholds any amount pursuant to NRS 338.600:

(1) The subcontractor may not withhold more than 5 percent of the amount of any progress payment; and

(2) The subcontractor may continue to retain the amount of any retainage that was withheld from progress payments pursuant to subsection 1.

3. If the subcontractor receives a payment of interest earned on the retainage or an amount withheld from a progress payment, the subcontractor shall, within 10 days after receiving the money, pay to each of his or her subcontractors or suppliers that portion of the interest received from the contractor which is attributable to the retainage or amount withheld from a progress payment by the subcontractor to his or her subcontractor or supplier.

Sec. 6. This act becomes effective on October 1, 2011, and expires by limitation on July 1, 2015.

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. 631 to Assembly .Bill No. 413 allows a public body to pay to a contractor some or all of the retainage withheld during the first half of the project if satisfactory progress is being made in the work, or if a subcontractor has completed its portion of the work.

It provides that if the public body pays this retainage to the contractor, the contractor must pay his retainage withheld as required in *Nevada Revised Statutes* (NRS) 338.555 to any

subcontractor. NRS 338.555 provides the contractor to pay either the whole 5 percent of the retainage or 2.5 percent, if the contractor continues to withhold the retainage.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Joint Resolution No. 15.

Resolution read third time.

Remarks by Senators Leslie and Horsford.

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

SENATOR LESLIE:

Senate Joint Resolution No. 15 proposes to amend Article 10, Section 1 of the *Nevada Constitution* to repeal the provision establishing a separate tax rate and providing for assessing and disbursing the tax on the net proceeds of mines.

This amendment to the *Nevada Constitution* would allow the Legislature to determine both the taxation of the net proceeds of mines and the distribution of those taxes.

Pursuant to Article 16, Section 1 of the *Nevada Constitution* and Chapter 218D of NRS, the provisions contained within this joint resolution must be approved by the Legislature during the 2011 and 2013 Sessions, followed by voter approval at the 2014 General Election or a special election, in order to be ratified.

SENATOR HORSFORD:

I rise in support of this resolution. This legislation would give Nevadans a choice about how one of the largest industries in the State should pay its fair share in supporting education, public safety and other vital services.

By way of history, in 1987, the Legislature proposed a constitutional amendment to limit the tax on the net proceeds of mines to 5 percent. That measure was approved by the Legislature again in the 1989 65th Session and ratified that same year by Nevada voters.

Nevadans spoke at that special election and the 5 percent limit on taxation of net proceeds has been in effect ever since.

Senate Joint Resolution No. 15 would give Nevadans the same opportunity to speak more than 20 years later about whether they believe the current system for taxing the mining industry is fair and adequate, given the changed circumstances in the State.

We have talked about the need to fundamentally reform our revenue code and the taxation of the mining industry is an important part of that overall reform.

Senate Joint Resolution No. 15 would give Nevadans the opportunity to direct the Legislature on whether the current mining taxation system should be maintained or altered. It would ask Nevada voters whether they want us to have the latitude to determine a new rate more reflective of the needs of this State by lifting the constitutional ban on changing the rate.

This is not a mandate for changing the current system, but an opportunity for the people of Nevada to tell us whether they want that change.

Roll call on Senate Joint Resolution No. 15:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, McGinness, Rhoads, Settelmeyer—8.

Senate Joint Resolution No. 15 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 190.

The following Assembly amendment was read:

Amendment No. 721.

"SUMMARY—Provides for the licensure of music therapists. (BDR 54-377)"

"AN ACT relating to music therapy; providing for the licensure of music therapists by the State Board of Health; authorizing the Board to establish a voluntary Music Therapy Advisory Group; prohibiting a person from engaging in the practice of music therapy without a license; prescribing the requirements for the issuance and renewal of a license as a music therapist; establishing the grounds for disciplinary action against a music therapist; providing the disciplinary actions the Board may take against a music therapist; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of certain professions, occupations and businesses. (Title 54 of NRS) This bill provides for the licensure and regulation of music therapists. **Section 12** of this bill makes it unlawful to practice music therapy or hold oneself out as a music therapist without a license. **Section 17** of this bill sets forth the authorized music therapy services that may be provided by a music therapist. **Sections 13 and 14** of this bill make the State Board of Health the licensing entity for music therapists and establishes the requirements and fee for licensure to practice as a music therapist. **Sections 15 and 16** of this bill provide for the renewal of a license to practice music therapy every ~~[5]~~ **3** years as well as the requirements and fee for renewal. **Section 34** of this bill provides that the State Board of Health may not increase the fee for issuing or renewing a license sooner than January 1, 2014.

Section 10 of this bill allows the State Board of Health to adopt any regulations it deems necessary to carry out the provisions of the bill. In addition, **section 10** requires the Board to enforce the provisions of the bill to the extent that money is available for that purpose. The Board is also required to maintain a list of applicants, licensees and persons whose licenses have been revoked or suspended and make those lists available upon request and payment of any fee. **Section 11** of this bill authorizes the State Board of Health to establish a Music Therapy Advisory Group that serves without compensation to assist the Board in carrying out its duties.

Sections 18-23 of this bill establish the grounds for disciplinary action against a music therapist and the procedures for addressing complaints and taking such disciplinary action. **Section 24** of this bill prohibits a person from requiring a music therapist to delegate certain services to another person in certain circumstances.

Section 25 of this bill adds music therapists to the definition of "provider of health care" as used in the chapter which addresses healing arts. That definition is also referred to and used in various sections of the NRS for various purposes. (*See e.g.* NRS 48.039, 162A.760, 391.208) **Section 26** of this bill adds music therapists to the list of persons required to report unprofessional conduct by a nurse or other person licensed or certified by the State Board of Nursing. **Sections 27-29** of this bill add music therapists to the list of persons required to report any known or suspected abuse, neglect, exploitation or isolation of an older or vulnerable person. **Section 30** of this bill adds music therapists to the list of persons required to report any known or suspected abuse or neglect of a child. **Section 31** of this bill makes the regulations of the State Board of Health relating to licensing music therapists subject to review of the Legislative Committee on Health Care. After any such review, the Committee would notify the Board of the advisability of adopting or revising the proposed regulation. (NRS 439B.225)

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 24, inclusive, of this act.

Sec. 2. ***The practice of music therapy is hereby declared to be a learned allied health profession, affecting public health, safety and welfare and subject to regulation to protect the public from the practice of music therapy by unqualified and unlicensed persons and from unprofessional conduct by persons who are licensed to practice music therapy.***

Sec. 3. ***As used in this chapter, 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. ***"Board" means the State Board of Health.***

Sec. 5. ***"Client" means a person who receives music therapy services.***

Sec. 6. ***"Licensee" means a music therapist who is licensed to practice music therapy pursuant to this chapter.***

Sec. 7. ***"Music therapy" means the clinical use of music interventions by a licensee to accomplish individualized goals within a therapeutic relationship by a credentialed professional who has completed a music therapy program approved by the Board. The term does not include:***

1. The practice of psychology or medicine;

2. The psychological assessment or treatment of couples or families;

3. The prescribing of drugs or electroconvulsive therapy;

4. The medical treatment of physical disease, injury or deformity;

5. The diagnosis or psychological treatment of a psychotic disorder;

6. The use of projective techniques in the assessment of personality;

7. The use of psychological, neuropsychological, psychometric assessment or clinical tests designed to identify or classify abnormal or

pathological human behavior or to determine intelligence, personality, aptitude, interests or addictions;

8. The use of individually administered intelligence tests, academic achievement tests or neuropsychological tests; ~~[or]~~

9. The use of psychotherapy to treat the concomitants of organic illness ~~[.]~~ ;

10. The diagnosis of any physical or mental disorder; or

11. The evaluation of the effects of medical and psychotropic drugs.

Sec. 8. *"Music therapy services" means the services a licensee is authorized to provide pursuant to section 17 of this act in order to achieve the goals of music therapy.*

Sec. 9. *The provisions of this chapter do not apply to:*

1. A person who is employed by this State or the Federal Government and who provides music therapy services within the scope of that employment.

2. A person performing services or participating in activities as part of a supervised course of study in an accredited or approved educational or internship program while pursuing study leading to a degree or certificate in music therapy, if the person is designated by a title which clearly indicates his or her status as a student or intern.

3. A person who holds a professional license in this State or an employee who is supervised by a person who holds a professional license in this State and whose provision of music therapy services is incidental to the practice of his or her profession if the person does not hold himself or herself out to the public as a music therapist.

Sec. 10. *1. The Board may adopt such regulations as it deems necessary to carry out the provisions of this chapter. The regulations may include, without limitation, additional:*

(a) Standards of training for music therapists;

(b) Requirements for continuing education for music therapists; and

(c) Standards of practice for music therapists.

2. The Board shall:

(a) Enforce the provisions of this chapter and any regulations adopted pursuant thereto, to the extent that money is available for that purpose; and

(b) Maintain a list of:

(1) Applicants for a license;

(2) Licensees; and

(3) Persons whose licenses have been revoked or suspended by the Board.

3. The Board shall, upon request and payment of any fee, provide a copy of a list maintained pursuant to paragraph (b) of subsection 2. A fee charged for providing the copy must not exceed the actual cost incurred by the Board to make the copy.

4. The Board may accept gifts, grants, donations and contributions from any source to assist in carrying out the provisions of this chapter.

Sec. 11. *1. The Board may establish a Music Therapy Advisory Group consisting of persons familiar with the practice of music therapy to provide the Board with expertise and assistance in carrying out its duties pursuant to this chapter. If a Music Therapy Advisory Group is established, the Board must:*

(a) Determine the number of members;

(b) Appoint the members;

(c) Establish the terms of the members; and

(d) Determine the duties of the Music Therapy Advisory Group.

2. Members of a Music Therapy Advisory Group established pursuant to subsection 1 serve without compensation.

Sec. 12. *1. A person who is not licensed to practice music therapy pursuant to this chapter, or a person whose license to practice music therapy has expired or has been suspended or revoked by the Board, shall not:*

(a) Provide music therapy services;

(b) Use in connection with his or her name the words or letters "MT," "music therapist," "licensed, board-certified music therapist," "MT-BC," "Music Therapist - Board Certified," "MT - BC/L" or "Licensed Music Therapist - Board Certified" or any other letters, words or insignia indicating or implying that he or she is licensed to practice music therapy, or in any other way, orally, or in writing or print, or by sign, directly or by implication, use the words "music therapy" or represent himself or herself as licensed or qualified to engage in the practice of music therapy; or

(c) List or cause to have listed in any directory, including, without limitation, a telephone directory, his or her name or the name of his or her company under the heading "Music Therapy" or "Music Therapist" or any other term that indicates or implies that he or she is licensed or qualified to practice music therapy.

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 13. *1. The Board shall issue a license to practice music therapy to an applicant who:*

(a) Is at least 18 years of age;

(b) Is of good moral character; and

(c) Submits to the Board:

(1) A completed application on a form provided by the Board;

(2) Proof that the applicant has successfully completed an academic program approved by the American Music Therapy Association or its successor organization with a bachelor's degree or higher degree in music therapy;

(3) A fee in the amount of $200 or such other amount as prescribed by regulation by the Board;

(4) A complete set of fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(5) Proof that the applicant has passed the examination for board certification offered by the Certification Board for Music Therapists or its successor organization or is certified as a music therapist by that Board or its successor organization.

2. Any increase in the fees imposed pursuant to this section must not exceed the amount necessary for the Board to carry out the provisions of this chapter.

Sec. 14. *1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license as a music therapist shall:*

(a) Include the social security number of the applicant in the application submitted to the Board.

(b) Submit to the Board 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 Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license may not be issued or renewed by the Board 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 Board 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. 15. *1. Each license to practice music therapy expires ~~[5]~~ 3 years after the date on which it is issued and may be renewed if, before the license expires, the licensee submits to the Board:*

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof that the applicant has continuously maintained for the previous ~~*[5]*~~ *3 years his or her certification with and is currently certified as a music therapist by the Certification Board for Music Therapists or its successor organization;*

(c) Proof that the applicant has completed not less than 100 units of continuing education approved by the Certification Board for Music Therapists or its successor organization; and

(d) A fee in the amount of $200 or such other amount as prescribed by regulation by the Board.

2. Any increase in the fees imposed pursuant to this section must not exceed the amount necessary for the Board to carry out the provisions of this chapter.

Sec. 16. *1. A license that is not renewed on or before the date on which it expires is delinquent. The Board shall, within 30 days after the license becomes delinquent, send a notice to the licensee by certified mail, return receipt requested, to the address of the licensee as indicated in the records of the Board.*

2. A licensee may renew a delinquent license within 60 days after the license becomes delinquent by complying with the requirements of section 15 of this act.

3. A license expires 60 days after it becomes delinquent if it is not renewed within that period.

Sec. 17. *1. A licensee may:*

~~*[1.]*~~ *(a) Accept referrals for music therapy services from physicians, psychologists or other* ~~*[health and]*~~ *medical, developmental or mental health professionals, education professionals, family members, clients or caregivers. Before providing music therapy services to a client for a medical or mental health condition, the licensee shall collaborate with the client's physician, psychologist ,* ~~*[or other]*~~ *primary care provider or mental health professional to review the client's diagnosis ,* ~~*[and]*~~ *treatment needs* ~~*[.*~~

~~*2.]*~~ *and treatment plan.*

(b) Conduct a music therapy assessment of a client to collect systematic, comprehensive and accurate information necessary to determine the appropriate type of music therapy services to provide for the client, including, without limitation, information relating to a client's emotional and physical health, social functioning, communication abilities and cognitive skills based upon the client's history and through observation and interaction of the client in music and nonmusic settings.

~~*[3.]*~~ *(c) Develop an individualized treatment plan for the client that identifies the goals, objectives and potential strategies of the music therapy services appropriate for the client using music interventions, which may include, without limitation, music improvisation, receptive music listening,*

song writing, lyric discussion, music and imagery, music performance, learning through music and movement to music.

~~[4.]~~ (d) If applicable, carry out an individualized treatment plan that is consistent with any other medical, developmental, mental health or education services being provided to the client.

~~[5.]~~ (e) Evaluate and compare the client's response to music therapy and the individualized treatment plan and suggest modifications, as appropriate.

~~[6.]~~ (f) Develop a plan for determining when the provision of music therapy services is no longer needed in collaboration with the client, any physician or other provider of health care or education of the client, any appropriate member of the family of the client and any other appropriate person upon whom the client relies for support.

~~[7.]~~ (g) Minimize any barriers so that the client may receive music therapy services in the least restrictive environment.

~~[8.]~~ (h) Collaborate with and educate the client and the family or caregiver of the client or any other appropriate person about the needs of the client that are being addressed in music therapy and the manner in which the music therapy addresses those needs.

~~[9. Perform other services approved by the Board or]~~

2. Except as otherwise provided by this chapter or a regulation adopted by the Board pursuant to this chapter, a licensee shall comply with the scope of practice of the Certification Board for Music Therapists or its successor organization.

Sec. 18. *The Board may refuse to grant or may suspend or revoke a license to practice music therapy for any of the following reasons:*

1. Submitting false, fraudulent or misleading information to the Board or any agency of this State, any other state, a territory or possession of the United States, the District of Columbia or the Federal Government.

2. Violating any provision of this chapter or any regulation adopted pursuant thereto.

3. Conviction of a felony relating to the practice of music therapy or of any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.

4. Habitual drunkenness or addiction to the use of a controlled substance.

5. Impersonating a licensed music therapist or allowing another person to use his or her license.

6. Using fraud or deception in applying for a license to practice music therapy.

7. Failing to comply with the "Code of Professional Practice" of the Certification Board for Music Therapists or its successor organization or committing any other unethical practices contrary to the interest of the public as determined by the Board.

8. Negligence, fraud or deception in connection with the music therapy services a licensee is authorized to provide pursuant to this chapter.

Sec. 19. *1. If any member of the Board or a Music Therapy Advisory Group becomes aware of any ground for initiating disciplinary action against a licensee, the member must file a written complaint with the Board.*

2. As soon as practicable after receiving a complaint, the Board shall:

(a) Forward the complaint to the Certification Board for Music Therapists or its successor organization for investigation of the complaint and request a written report of the findings of such investigation; or

(b) To the extent money is available to do so, conduct an investigation of the complaint to determine whether the allegations in the complaint merit the initiation of disciplinary proceedings against the licensee.

3. The Board shall retain a copy of each complaint filed with the Board pursuant to this section for at least 10 years, including, without limitation, any complaint that is not acted upon.

Sec. 20. *1. If, after an investigation conducted by the Board or receiving the findings from an investigation of a complaint from the Certification Board for Music Therapists or its successor organization, and after notice and a hearing as required by law, the Board finds one or more grounds for taking disciplinary action, the Board may:*

(a) Place the licensee on probation for a specified period or until further order of the Board;

(b) Administer to the applicant or licensee a public reprimand;

(c) Refuse to renew the license of the licensee;

(d) Suspend or revoke the license of the licensee;

(e) Impose an administrative fine of not more than $500 for each violation; or

(f) Take any combination of actions set forth in paragraphs (a) to (e), inclusive.

2. The order of the Board may include such other terms, provisions or conditions as the Board deems appropriate.

3. The order of the Board and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not issue a private reprimand.

Sec. 21. *1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Board, all documents and other information filed with the complaint and all documents and other information returned from the Certification Board for Music Therapists or its successor organization as a result of an investigation conducted to determine whether to initiate disciplinary action against a person are confidential, unless the person submits a written statement to the Board requesting that such documents and information be made public records.*

2. The charging documents filed with the Board to initiate disciplinary action pursuant to chapter 622A of NRS and all documents and

information considered by the Board when determining whether to impose discipline are public records.

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

4. The provisions of this section do not prohibit the Board from communicating or cooperating with or providing any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

Sec. 22. ***1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a music therapist, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.***

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

Sec. 23. ***1. If the Board determines that a person has violated or is about to violate any provision of this chapter or a regulation adopted pursuant thereto, the Board may bring an action in a court of competent jurisdiction to enjoin the person from engaging in or continuing the violation.***

2. An injunction:

(a) May be issued without proof of actual damage sustained by any person.

(b) Does not prohibit the criminal prosecution and punishment of the person who commits the violation.

Sec. 24. ***1. A person shall not require a licensee to delegate the provision of music therapy services to another person if, in the opinion of the licensee, such delegation would be inappropriate or create a risk of harm to the client.***

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 25. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by a specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, physician assistant, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, licensed clinical professional counselor, ***music therapist,*** chiropractor, athletic trainer, perfusionist, doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 26. 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, 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, ***music therapist,*** 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 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. 27. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

(1) The local office of the Aging and Disability Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging and Disability Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging and Disability Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of

NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, ***music therapist,*** athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 427A.0291.

(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, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging and Disability Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within

3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging and Disability Services Division of the Department of Health and Human Services, must be forwarded within 30 days after the completion of the report to the:

(a) Aging and Disability Services Division;

(b) Repository for Information Concerning Crimes Against Older Persons created by NRS 179A.450; and

(c) Unit for the Investigation and Prosecution of Crimes.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if the older person is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 28. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in a professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, perfusionist, physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, ***music therapist,*** athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who

examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his or her written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 29. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; or

(c) To persons or agencies enumerated in subsection 3,

➥ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his or her estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of NRS, ***or sections 2 to 24, inclusive, of this act, the*** information contained in the report must be submitted to the board that issued the license.

Sec. 30. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, ***music therapist,*** athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon

notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless the attorney has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 31. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any division or board empowered to adopt standards for the issuance or renewal of licenses, permits or certificates of registration pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A, 630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B, 639, 640, 640A, 641, 641A, 641B, 641C, 652 or 654 of NRS ~~[.]~~ ***or sections 2 to 24, inclusive, of this act.***

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for the issuance or renewal of licenses, permits or certificates of registration issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this State;

(c) The effect of the regulation on the number of licensed, permitted or registered persons and facilities available to provide services in this State; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.

Sec. 32. NRS 608.0116 is hereby amended to read as follows:

608.0116 "Professional" means pertaining to 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 ~~[.]~~ ***and sections 2 to 24, inclusive, of this act.***

Sec. 33. Section 14 of this act is hereby amended to read as follows:

Sec. 14. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license as a music therapist shall ~~[~~:

~~(a) Include the social security number of the applicant in the application submitted to the Board.~~

~~(b) Submit~~] ***submit*** to the Board 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 Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license may not be issued or renewed by the Board 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 Board 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. 34. The State Board of Health shall not adopt any regulation to increase the fee for the issuance of a license to practice music therapy pursuant to section 13 of this act or the fee for the renewal of such a license pursuant to section 15 of this act before January 1, 2014.

Sec. 35. 1. This section, sections 1 to 32, inclusive, and section 34 of this act become effective:

(a) Upon passage and approval for the purpose of issuing licenses to qualified applicants; and

(b) On January 1, 2012, for all other purposes.

2. Section 33 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.

3. Sections 22 and 33 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 Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 190.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 234.

The following Assembly amendment was read:

Amendment No. 669.

"SUMMARY—Revises provisions relating to motor vehicle dealers. (BDR 43-386)"

"AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under certain circumstances; revising provisions governing the modification or replacement of a franchise; revising provisions relating to unfair practices; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer in certain circumstances and provides that any such requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Section 9 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line and make of vehicles.

Section 16 of this bill provides that the forms for the application for credit and contracts to be used in the sale of vehicles prescribed by the Commissioner of Financial Institutions must contain a provision which provides that if the seller elects to rescind the contract, the seller must provide notice to the buyer not less than 20 days after the date of the contract.

Section 10 of this bill provides that a refusal to accept an amended claim for parts and labor or a claim that was not filed before the manufacturer's deadline that is submitted within 60 days after the claim was first filed or was due is an unfair practice. **Section 10** also makes an audit confirming a warranty repair, sales incentive or rebate performed more than 9 months after a claim was made an unfair practice. **Section 11** of this bill prohibits a manufacturer from preventing a dealer from disclosing a service, repair guidance or recall notice or providing certain information relating to warranty coverage.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***1. A manufacturer shall not require a dealer:***

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

for any new vehicles that are handled by the dealer unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section and NRS 482.36311 to 482.36425, inclusive, and section 3 of this act.

Sec. 3. ***A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.***

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. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive. As used in this subsection, "area of primary responsibility" means

the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line and make of vehicles.

Sec. 10. NRS 482.36385 is hereby amended to read as follows:

482.36385 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Compete with a dealer. A manufacturer or distributor shall not be deemed to be competing when operating a previously existing dealership temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified person at a fair and reasonable price, or in a bona fide relationship in which a person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

2. Discriminate unfairly among its dealers, or fail without good cause to comply with franchise agreements, with respect to warranty reimbursement or authority granted to its dealers to make warranty adjustments with retail customers.

3. Fail to compensate a dealer fairly for the work and services which the dealer is required to perform in connection with the delivery and preparation obligations under any franchise, or fail to compensate a dealer fairly for labor, parts and other expenses incurred by the dealer under the manufacturer's warranty agreements. The manufacturer shall set forth in writing the respective obligations of a dealer and the manufacturer in the preparation of a vehicle for delivery, and as between them a dealer's liability for a defective product is limited to the obligation so set forth. Fair compensation includes diagnosis and reasonable administrative and clerical costs. The dealer's compensation for parts and labor to satisfy a warranty must not be less than the amount of money charged to its various retail customers for parts and labor that are not covered by a warranty. If parts are supplied by the manufacturer, including exchanged parts and assembled components, the dealer is entitled with respect to each part to an amount not less than the dealer's normal retail markup for the part. This subsection does not apply to compensation for any part, system, fixture, appliance, furnishing, accessory or feature of a motor home or recreational vehicle that is designed, used and maintained primarily for nonvehicular, residential purposes.

4. Fail to ~~[pay]~~ ***:***

(a) Pay all claims made by dealers for compensation for delivery and preparation work, transportation claims, special campaigns and work to satisfy warranties within 30 days after approval, or fail to approve or disapprove such claims within 30 days after receipt ~~[, or disapprove]~~ *;*

(b) Disapprove any claim without notice to the dealer in writing of the grounds for disapproval ~~[.]~~ ***;***

(c) Accept an amended claim for labor and parts if the amended claim is submitted not later than 60 days after the date on which the manufacturer or distributor notifies the dealer that the claim has been disapproved and the disapproval was based on the dealer's failure to comply with a specific requirement for processing the claim, including, without limitation, a clerical error or other administrative technicality that does not relate to the legitimacy of the claim.

➥ Failure to approve or disapprove or to pay within the specified time limits in an individual case does not constitute a violation of this section if the failure is because of reasons beyond the control of the manufacturer, distributor or factory branch.

5. Sell a new vehicle to a person who is not licensed as a new vehicle dealer under the provisions of this chapter.

6. Use false, deceptive or misleading advertising or engage in deceptive acts in connection with the manufacturer's or distributor's business.

7. Perform an audit to confirm a warranty repair, sales incentive or rebate more than ~~[12]~~ ***9*** months after the date ~~[of the transaction.]~~ ***on which the claim was made. An audit of a dealer's records pursuant to this subsection may be conducted by the manufacturer or distributor on a reasonable basis, and a dealer's claim for warranty or sales incentive compensation must not be denied except for good cause, including, without limitation, performance of nonwarranty repairs, lack of material documentation, fraud or misrepresentation. A dealer's failure to comply with the specific requirements of the manufacturer or distributor for processing the claim does not constitute grounds for the denial of the claim or the reduction of the amount of compensation to the dealer if reasonable documentation or other evidence has been presented to substantiate the claim. The manufacturer or distributor shall not deny a claim or reduce the amount of compensation to the dealer for warranty repairs to resolve a condition discovered by the dealer during the course of a separate repair.***

8. Prohibit or prevent a dealer from appealing the results of an audit to confirm a warranty repair, sales incentive or rebate, or to require that such an appeal be conducted at a location other than the dealer's place of business.

Sec. 11. NRS 482.36389 is hereby amended to read as follows:

482.36389 A manufacturer shall not ~~[require]~~ ***:***

1. Require a dealer to disclose information concerning a customer to the manufacturer or a third party if the customer objects or the disclosure is otherwise unlawful ~~[.]~~ ***; or***

2. Prohibit or prevent a dealer from disclosing a service, repair guidance or recall notice that is documented by the manufacturer or notifying customers of available warranty coverage and expiration dates of existing warranty coverage.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 15.5. **Chapter 97 of NRS is hereby amended by adding thereto a new section to read as follows:**

Notwithstanding the provisions of any contract to the contrary, default on the part of the buyer is only enforceable to the extent that:

1. The buyer fails to make a payment as required by the agreement; or

2. The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

Sec. 16. NRS 97.299 is hereby amended to read as follows:

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Contain a provision that default on the part of the buyer is only enforceable to the extent that:

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) ***Contain a provision which provides that if the seller*** ~~*[elects to rescind the contract]*~~ ***exercises a valid option to cancel the vehicle sale as a result of***

being unable to assign the contract to a financial institution with whom the seller regularly does business, the seller must ~~[provide]~~ hand-deliver or send prepaid by United States mail written notice to the buyer not less than 20 days after the date of the contract.

(g) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

Sec. 17. (Deleted by amendment.)

Sec. 17.5. The Commissioner of Financial Institutions shall adopt the regulations required by section 16 of this act on or before October 1, 2011.

Sec. 18. 1. This section and sections 16 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. Sections 1 to ~~[15,]~~ **15.5,** inclusive, and 17 of this act become effective on October 1, 2011.

3. The amendatory provisions of section 16 of this act expire by limitation on September 30, 2012.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 234.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 237.

The following Assembly amendment was read:

Amendment No. 638.

"SUMMARY—Revises provisions governing the Nevada Youth Legislature. (BDR 34-9)"

"AN ACT relating to education; revising certain provisions governing the Nevada Youth Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the creation, membership, powers and duties of the Nevada Youth Legislature. (NRS 385.505-385.575) **Sections 6 and 16** of this bill provide for the creation of a nonprofit corporation, with a Board of Directors appointed by the Legislative Commission, to provide educational programs and opportunities and administer and oversee the activities of the Youth Legislature. Pursuant to **sections 6, 9-12 and 16** of this bill, the Board, working cooperatively with the Legislative Counsel Bureau, assumes most of the duties currently performed by the Bureau and the Director of the Bureau. **Sections 5 and 14** of this bill provide for the creation of the Nevada Youth Legislature **Account in the Legislative** Fund, into which gifts, grants, donations and legislative appropriations ~~[must]~~ **may** be deposited and from which the expenses and operations of the Youth Legislature are paid. **Section 8** of this bill increases the term of a member of the Youth Legislature from 1 year to 2 years, with the possibility of a single, successive 2-year reappointment if the member continues to meet the qualifications for initial appointment. **Section 9** of this bill provides that if a member of the Youth Legislature changes his or her residency or school of enrollment in such a manner as to render the member ineligible for his or her original appointment, the member must so inform the Board, in writing, of that fact. **Section 9** also expands the eligibility requirements to allow pupils in grade 9 to apply for appointment to the Youth Legislature. **Section 10** of this bill sets forth that: (1) the position of a member of the Youth Legislature becomes vacant upon the unexcused absence of the member from any two official, scheduled meetings, courses, events, seminars or activities of the Youth Legislature; and (2) insofar as is practicable, a vacancy on the Youth Legislature must be filled within 30 days after the date on which the vacancy occurs. **Section 12** of this bill provides that, in addition to conducting at least one meeting, each member of the Youth Legislature must perform such other activities relating to the Youth Legislature as may be assigned by the Board. **Section 15** of this bill extends the date of reversion for the initial appropriation made to the Youth Legislature in 2007 from 2011 to 2013.

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

Section 1. Chapter 385 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 NRS 385.505 to 385.575, inclusive, and sections 2 to 6, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 385.505 and sections 2.5 and 3 ~~[and 4]~~ of this act have the meanings ascribed to them in those sections.***

Sec. 2.5. "Account" means the Nevada Youth Legislature Account created by section 5 of this act.

Sec. 3. ***"Board" means the Board of Directors described in subsection 2 of section 6 of this act.***

Sec. 4. ~~*["Fund" means the Nevada Youth Legislature Fund created by section 5 of this act.]*~~ **(Deleted by amendment.)**

Sec. 5. ***1. There is hereby created*** ~~*[as a special revenue fund in the State Treasury]*~~ ***the Nevada Youth Legislature Account in the Legislative Fund.***

2. Money for the ~~*[Fund must]*~~ ***Account may be provided:***

(a) By ~~*[direct legislative]*~~ ***appropriation;*** ~~*[and]*~~ ***or***

(b) Through the acceptance of gifts, grants and donations as authorized pursuant to ~~*[paragraph (c) of subsection 2 of]*~~ ***NRS 385.545*** ~~*[.]*~~ ***and section 6 of this act.***

3. ~~*[The Fund must be administered by the Board.*~~

~~*— 4.]*~~ ***The money in the*** ~~*[Fund]*~~ ***Account must be held in trust for the Youth Legislature and may be used only:***

(a) For the educational programs and operations of the Youth Legislature;

(b) To provide administrative support for the Youth Legislature;

(c) To pay for expenses directly related to the Youth Legislature; and

(d) For such other purposes directly related to the Youth Legislature as the Board may approve.

~~*[5.]*~~ ***4. The interest and income earned on the money in the*** ~~*[Fund,]*~~ ***Account, after deducting any applicable charges, must be credited to the*** ~~*[Fund.]*~~ ***Account. All claims against the*** ~~*[Fund]*~~ ***Account must be paid as other claims against the State are paid.***

~~*[6.]*~~ ***5. Any money remaining in the*** ~~*[Nevada Youth Legislature Fund]*~~ ***Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the*** ~~*[Nevada Youth Legislature Fund]*~~ ***Account must be carried forward to the next fiscal year.***

~~*[7.]*~~ ***6. Each year, the Board shall submit an itemized statement of the income and expenditures for the*** ~~*[Fund]*~~ ***Account to the Legislative Commission.***

Sec. 6. ***1. The Youth Legislature must be administered by a corporation for public benefit, as that term is defined in NRS 82.021, which must include providing educational programs and opportunities as its primary organizational goal.***

2. The corporation for public benefit must be governed by a Board of Directors consisting of seven members appointed by the Legislative Commission.

3. A member of the Board serves a term of 2 years and until his or her successor is appointed. A member of the Board may be reappointed.

4. The members of the Board shall elect a Chair and a Vice Chair from among their number. The term of office of the Chair and the Vice Chair is 1 year.

5. The Board:

(a) Shall administer the provisions of NRS 385.505 to 385.575, inclusive, and sections 2 to 6, inclusive, of this act.

(b) ~~***[Shall administer the Fund.***~~

~~***(c)]***~~ ***May provide to the Youth Legislature such administrative, financial and other support and guidance as the Board may determine to be necessary or appropriate.***

~~***[(d)]***~~ ***(c) May employ one or more persons to provide administrative support for the Youth Legislature or pay the costs incurred by one or more volunteers to provide any required administrative support.***

~~***[(e)]***~~ ***(d) Shall oversee the activities of the Youth Legislature.***

~~***[(f)]***~~ ***(e) May solicit and accept gifts, grants and donations from any source to provide educational programs and opportunities and for the support of the Youth Legislature in carrying out the provisions of NRS 385.505 to 385.575, inclusive, and sections 2 to 6, inclusive, of this act. Any such gifts, grants and donations must be deposited in the*** ~~***[Fund.]***~~ ***Account.***

~~***[(g)]***~~ ***(f) May perform such other functions in whatever manner the Board determines will best serve the interests of this State and the Youth Legislature.***

Sec. 7. NRS 385.505 is hereby amended to read as follows:

385.505 ~~[As used in NRS 385.505 to 385.575, inclusive,]~~ "Youth Legislature" means the Nevada Youth Legislature created by NRS 385.515.

Sec. 8. NRS 385.515 is hereby amended to read as follows:

385.515 1. The Nevada Youth Legislature is hereby created, consisting of 21 members.

2. Each member of the Senate shall, taking into consideration any recommendations made by a member of the Assembly, appoint a person who submits an application and meets the qualifications for appointment set forth in NRS 385.525. A member of the Assembly may submit recommendations to a member of the Senate concerning the appointment.

3. After the initial terms:

(a) Except as otherwise provided in subsection 4, appointments to the Youth Legislature must be made by each member of the Senate before March 30 of each year.

(b) The term of each member of the Youth Legislature begins June 1 of the year of appointment.

4. If a member of the Senate does not make an appointment to the Youth Legislature by March 30 of a year, the members of the Assembly whose assembly districts are at least partially located within the senatorial district of that member of the Senate must collaborate to appoint a person who submits an application and meets the qualifications for appointment set forth in NRS 385.525.

5. Each member of the Youth Legislature serves a term of ~~[1 year]~~ ***2 years*** and may be reappointed ***to one successive 2-year term*** if the member

continues to meet the qualifications for appointment set forth in NRS 385.525.

Sec. 9. NRS 385.525 is hereby amended to read as follows:

385.525 1. To be eligible for appointment to the Youth Legislature, a person:

(a) Must be:

(1) A resident of the senatorial district of the Senator who appoints him or her;

(2) Enrolled in a public school or private school located in the senatorial district of the Senator who appoints him or her; or

(3) A homeschooled child who is otherwise eligible to be enrolled in a public school in the senatorial district of the Senator who appoints him or her;

(b) Must be enrolled in a public school or private school in this State in grade ***9,*** 10, 11 or 12 for the school year in which he or she serves or be a homeschooled child who is otherwise eligible to enroll in a public school in this State in grade ***9,*** 10, 11 or 12 for the school year in which he or she serves; and

(c) Must not be related by blood, adoption or marriage within the third degree of consanguinity or affinity to the Senator who appoints him or her or to any member of the Assembly who collaborated to appoint him or her.

2. ***If, at any time, a person appointed to the Youth Legislature changes his or her residency or changes his or her school of enrollment in such a manner as to render the person ineligible under his or her original appointment, the person shall inform the Board, in writing, within 30 days after becoming aware of such changed facts.***

3. A person who wishes to be appointed or reappointed to the Youth Legislature must submit an application on the form prescribed pursuant to subsection ~~[3]~~ ***4*** to the Senator of the senatorial district in which the person resides, is enrolled in a public school or private school or, if the person is a homeschooled child, the senatorial district in which he or she is otherwise eligible to be enrolled in a public school. A person may not submit an application to more than one Senator in a calendar year.

~~[3.]~~ ***4.*** The ~~[Director of the Legislative Counsel Bureau]~~ ***Board*** shall prescribe a form for applications submitted pursuant to this section, which must require the signature of the principal of the school in which the applicant is enrolled or, if the applicant is a homeschooled child, the signature of a member of the community in which the applicant resides other than a relative of the applicant.

Sec. 10. NRS 385.535 is hereby amended to read as follows:

385.535 1. A position on the Youth Legislature becomes vacant upon:

(a) The death or resignation of a member.

(b) The absence of a member for any reason from ~~[two]~~ ***:***

(1) Two meetings of the Youth Legislature, ***including, without limitation, meetings conducted in person, meetings conducted by***

teleconference, meetings conducted by videoconference and meetings conducted by other electronic means;

(2) Two activities of the Youth Legislature;

(3) Two event days of the Youth Legislature; or

(4) Any combination of absences from meetings, activities or event days of the Youth Legislature, if the combination of absences therefrom equals two or more,

➥ unless ***the absences are, as applicable,*** excused by the Chair ~~[of the Youth Legislature.]~~ ***or Vice Chair of the Board.***

(c) A change of residency or a change of the school of enrollment of a member which renders that member ineligible under his or her original appointment.

2. A vacancy on the Youth Legislature must be filled ~~[for]~~ ***:***

(a) For the remainder of the unexpired term in the same manner as the original appointment.

(b) Insofar as is practicable, within 30 days after the date on which the vacancy occurs.

3. As used in this section, "event day" means any single calendar day on which an official, scheduled event of the Youth Legislature is held, including, without limitation, a course of instruction, a course of orientation, a meeting, a seminar or any other official, scheduled activity.

Sec. 11. NRS 385.545 is hereby amended to read as follows:

385.545 1. The Youth Legislature shall elect from among its members, to serve a term of 1 year beginning on June 1 of each year:

(a) A Chair, who shall conduct the meetings and ***, in cooperation with the Board,*** oversee the formation of committees as necessary to accomplish the business of the Youth Legislature; and

(b) A Vice Chair, who shall assist the Chair and conduct the meetings of the Youth Legislature if the Chair is absent or otherwise unable to perform his or her duties.

2. The Director of the Legislative Counsel Bureau ~~[:]~~ ***upon request of the Board:***

(a) Shall provide meeting rooms and teleconference and videoconference facilities for the Youth Legislature.

(b) Shall, in the event of a vacancy on the Youth Legislature, notify the appropriate appointing authority of such vacancy.

(c) May accept gifts, grants and donations from any source for the support of the Youth Legislature in carrying out the provisions of NRS 385.505 to 385.575, inclusive ~~[.]~~ ***, and sections 2 to 6, inclusive, of this act. Any such gifts, grants and donations must be deposited in the*** ~~*[Fund.]*~~ ***Account.***

Sec. 12. NRS 385.555 is hereby amended to read as follows:

385.555 1. The Youth Legislature shall:

(a) Hold at least two public hearings in this State each school year. The Youth Legislature may simultaneously teleconference or videoconference each public hearing to two or more prominent locations throughout this State.

(b) Evaluate, review and comment upon issues of importance to the youth in this State, including, without limitation:

(1) Education;

(2) Employment opportunities;

(3) Participation of youth in state and local government;

(4) A safe learning environment;

(5) The prevention of substance abuse;

(6) Emotional and physical well-being;

(7) Foster care; and

(8) Access to state and local services.

(c) Conduct a public awareness campaign to raise awareness about the Youth Legislature and to enhance outreach to the youth in this State.

2. During his or her term, each member of the Youth Legislature shall ~~[conduct]~~ ***:***

(a) Conduct at least one meeting to afford the youth of this State an opportunity to discuss issues of importance to the youth in this State.

(b) Complete such other activities as may be assigned to him or her by the Board as a member of the Youth Legislature.

3. The Youth Legislature may, within the limits of available money ~~[:]~~ ***and if approved by the Board:***

(a) During the period in which the Legislature is in a regular session, meet as often as necessary to conduct the business of the Youth Legislature and to advise the Legislature on proposed legislation relating to the youth in this State.

(b) Form committees, which may meet as often as necessary to assist with the business of the Youth Legislature.

(c) Conduct periodic seminars for its members regarding leadership, government and the legislative process.

~~[(d) Employ a person to provide administrative support for the Youth Legislature or pay the costs incurred by one or more volunteers to provide any required administrative support.]~~

4. Except as otherwise provided in this subsection, the Youth Legislature and its committees shall comply with the provisions of chapter 241 of NRS. Any activities of the Youth Legislature which are conducted solely for purposes of training, including, without limitation, any orientation programs conducted for the Youth Legislature, are not subject to the provisions of chapter 241 of NRS.

5. On or before May 30 of each year, the Youth Legislature shall submit a written report to the ~~[Director of the Legislative Counsel Bureau]~~ ***Board*** and to the Governor describing the activities of the Youth Legislature during the immediately preceding school year and any recommendations for legislation. The ~~[Director]~~ ***Board*** shall transmit the written report to the Legislative Committee on Education and to the next regular session of the Legislature.

Sec. 13. NRS 385.565 is hereby amended to read as follows:

385.565 The Youth Legislature may:

1. Request the drafting of not more than one legislative measure which relates to matters within the scope of the Youth Legislature. A request must be submitted to the Legislative Counsel on or before December 1 preceding the commencement of a regular session of the Legislature unless the Legislative Commission authorizes submitting a request after that date.

2. Adopt procedures to conduct meetings of the Youth Legislature and any committees thereof. Those procedures may be changed upon approval of a majority vote of all members of the Youth Legislature who are present and voting.

3. Advise the ~~[Director of the Legislative Counsel Bureau]~~ ***Board*** regarding the administration of any appropriations, gifts, grants or donations received for the support of the Youth Legislature.

Sec. 14. NRS 385.575 is hereby amended to read as follows:

385.575 The members of the Youth Legislature serve without compensation. To the extent that money is available ~~[, including, without limitation, money from gifts, grants and donations,]~~ ***in the*** ~~*[Fund,]*~~ ***Account,*** the members of the Youth Legislature may receive the per diem allowance and travel expenses provided for state officers and employees generally for attending a meeting of the Youth Legislature or a seminar conducted by the Youth Legislature.

Sec. 15. Section 8 of chapter 345, Statutes of Nevada 2007, as amended by chapter 74, Statutes of Nevada 2009, at page 256, is hereby amended to read as follows:

Sec. 8. 1. There is hereby appropriated from the State General Fund to the disbursement account created by section 1 of this act the sum of $35,000 to fund the Nevada Youth Legislative Issues Forum created by Senate Bill 247 of the 2007 Legislative Session.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, ~~[2011,]~~ ***2013,*** by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September ~~[16, 2011,]~~ ***20, 2013,*** by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September ~~[16, 2011.]~~ ***20, 2013.***

Sec. 16. As soon as practicable after the effective date of this act, the Legislative Commission shall:

1. Create or cause to be created the corporation for public benefit described in section 6 of this act. The corporation must be created in accordance with the requirements set forth in chapter 82 of NRS.

2. Appoint a Board of Directors for the corporation for public benefit described in section 6 of this act.

3. Perform such other activities as are necessary to provide initial support to the corporation for public benefit described in section 6 of this act.

Sec. 17. All money previously appropriated, donated, granted or otherwise supplied to the Nevada Youth Legislature, or its successor in interest, remaining unexpended and unencumbered on the effective date of this act must be transferred to the Nevada Youth Legislature ~~[Fund]~~ **Account** created by section 5 of this act on or before July 1, 2011.

Sec. 18. This act becomes effective upon passage and approval.

Senator Denis moved that the Senate concur in the Assembly amendment to Senate Bill No. 237.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 273.

The following Assembly amendment was read:

Amendment No. 718.

"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 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 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.*~~] **(Deleted by amendment.)**

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 in practice as a physician assistant,*** or the aiding or abetting of any unlicensed person to practice osteopathic medicine ~~[,]~~ ***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 ~~[;]~~ ***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 ~~[.~~

~~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 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 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 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 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 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 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 ~~[or 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 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 Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 273.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 358.

The following Assembly amendment was read:

Amendment No. 642.

"SUMMARY—Makes various changes concerning the operation of certain vending stands. (BDR 22-665)"

"AN ACT relating to regional transportation commissions; revising provisions pertaining to vending stands provided for by such a commission; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes a priority of right for persons who are blind or visually impaired to operate vending stands in or on any public buildings or properties. (NRS 426.640) Existing law also exempts from that priority of right vending stands in any building, terminal or parking facility owned, operated or leased by a regional transportation commission in a county whose population is 400,000 or more (currently Clark County). (NRS 277A.320) **Section 2** of this bill removes that exemption for both existing and future contracts. **Section 3** of this bill clarifies that the removal of the exemption applies with respect to any vending stand contract entered into by such a regional transportation commission on or after the effective date of this bill, and that any such existing vending stand contract must comply with the amendatory provisions of this bill on and after July 1, 2011.

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

Section 1. The Legislature hereby finds and declares that:

1. There is a great need, as described in NRS 426.640, to provide persons who are blind with remunerative employment, enlarge the economic opportunities of persons who are blind and stimulate persons who are blind to greater efforts to make themselves self-supporting with independent livelihoods; and

2. It is the policy of the Legislature and of this State to support the needs of persons who are blind by vigorously enforcing and promoting the provisions of NRS 426.630 to 426.720, inclusive.

Sec. 2. NRS 277A.320 is hereby amended to read as follows:

277A.320 1. In a county whose population is 400,000 or more, the commission may provide for the construction, installation and maintenance of vending stands for passengers of public mass transportation in any building, terminal or parking facility owned, operated or leased by the commission.

2. The provisions of NRS 426.630 to 426.720, inclusive, ~~[do not]~~ apply to a vending stand constructed, installed or maintained pursuant to this section.

Sec. 3. 1. The amendatory provisions of this act apply to any contract for the operation of a vending stand that is entered into on or after the effective date of this act.

2. In addition to the provisions of subsection 1, all contracts for the operation of a vending stand that are in existence on the date on which this act becomes effective and are affected by the amendatory provisions of this act must be in compliance with the amendatory provisions of this act on and after July 1, 2011.

3. As used in this section, "vending stand" has the meaning ascribed to it in NRS 426.630.

Sec. 4. This act becomes effective upon passage and approval.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 358.

Motion carried by a constitutional majority.

Bill ordered enrolled.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Bills Nos. 196, 459, 478.

Senator Horsford moved that the Senate adjourn until Sunday, May 29, 2011, at 1:30 p.m.

Motion carried.

Senate adjourned at 8:01 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate