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Journal of the
Senate

OF THE
SEVENTY-SIXTH SESSION

OF THE
LEGISLATURE OF THE
STATE OF NEVADA

2011



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

VOLUME 5

THE ONE HUNDRED AND TWELFTH DAY—THE ONE HUNDRED
AND SEVENTEENTH DAY

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THE ONE HUNDRED AND TWELFTH DAY

CARSON CITY (Sunday), May 29, 2011

Senate called to order at 2:40 p.m.

President Pro Tempore Schneider presiding.

Roll called.

All present.

Prayer by Senator Mo Denis.

Heavenly Father, this day we are grateful for the opportunity to give service and for the opportunity we have to remember Thee on this day.

We are thankful for our health and our strength. We are thankful for our families that support us and put up with the things we do and the service we give while we are gone and not there with them. We thank Thee for this day that can reflect upon the things that we have done and be able to do them better. We thank Thee for the service of all those throughout the State, be it State workers, be it teachers and all those who help to make our State a good place to be.

We ask Thee to help us to remember as we go through the deliberative process and that we will work together to come to a conclusion to address the situation we have in this State with the economy, the budget and the laws we are proposing and that we are debating. We ask Thy spirit to help us and to guide us that we might do what is best for the people of Nevada. We will be safe and protected as we serve and do what must be done.

Bless us to continue to have our health and our strength and that we will be able to have joy and happiness as we serve and do the work that needs to be done. We say these things in the name of 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 Government Affairs, to which were referred Assembly Bills Nos. 257, 471, 549, 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 were referred Assembly Bills Nos. 258, 379, 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 Assembly Bills Nos. 80, 433, 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 Transportation, to which was referred Assembly Joint Resolution No. 6, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHIRLEY A. BREEDEN, *Chair*

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. 88, 102, 112, 132, 213, 411, 417, 430, 445.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 74, 245, 402, 404.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 77, Amendment No. 646; Senate Bill No. 205, Amendment No. 653; Senate Bill No. 236, Amendment No. 628; Senate Bill No. 259, Amendment No. 654; Senate Bill No. 292, Amendment No. 655; Senate Bill No. 299, Amendment No. 682; Senate Bill No. 414, Amendment No. 716, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 687 to Assembly Bill No. 132; Senate Amendment No. 664 to Assembly Bill No. 160; Senate Amendments Nos. 763, 623 to Assembly Bill No. 456.

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. 618 to Assembly Bill No. 20.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 193, Assembly Amendment No. 568, and requests a conference, and appointed Assemblymen Carlton, Atkinson and Grady as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 264, Assembly Amendment No. 636, and requests a conference, and appointed Assemblymen Pierce, Hammond and Benitez-Thompson as a Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Frierson, Benitez-Thompson and Hammond as a Conference Committee concerning Assembly Bill No. 362.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

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 2:47 p.m.

SENATE IN SESSION

At 5:23 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bill No. 291 be taken from the Secretary's desk and placed on the General File.

Motion carried.

Senator Wiener moved that Senate Bill No. 207 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Kihuen moved that Assembly Bill No. 202 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Parks moved that all necessary rules be suspended, and that Assembly Bill No. 80 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 257 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that Assembly Bill No. 258 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that Assembly Bill No. 379 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Parks moved that all necessary rules be suspended, and that Assembly Bill No. 433 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 471 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Lee moved that all necessary rules be suspended, and that Assembly Bill No. 549 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Breeden moved that all necessary rules be suspended, and that Assembly Joint Resolution No. 6 just reported out of committee be placed on second reading for this legislative day.

Motion carried.

Senator Horsford moved that the action whereby Assembly Bill No. 78 was lost be rescinded and placed on the last agenda for this legislative day.

Motion carried on a division of the house.

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

Senate in recess at 5:32 p.m.

SENATE IN SESSION

At 5:40 p.m.

President Krolicki presiding.

Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 74.

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

Motion carried.

Assembly Bill No. 245.

Senator Wiener moved that the bill be referred to the Committee on Revenue

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Halseth moved that Assembly Bill No. 379 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 402.

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

Motion carried.

Assembly Bill No. 404.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 437.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 797.

"SUMMARY—Revises provisions governing assistance to parents and relatives caring for certain persons with mental retardation and related conditions. (BDR 39-1215)"

"AN ACT relating to public assistance; revising provisions governing assistance provided to parents and relatives caring for certain persons with mental retardation or related conditions or children with certain developmental delays; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides assistance to parents and relatives caring for certain persons with mental retardation or related conditions or, if the person being cared for is under 6 years of age, similar developmental delays if certain other criteria relating to income and the quality of care are met. (NRS 435.365) This bill provides that such assistance is available only to the extent that money is available for that purpose and ~~authorizes~~ **requires** the Division of Mental Health and Developmental Services of the Department of Health and Human Services to establish a waiting list for eligible applicants who are not provided assistance because of a shortage of money.

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

Section 1. NRS 435.365 is hereby amended to read as follows:

435.365 1. ~~Whenever~~ ***To the extent that money is available for that purpose, whenever*** a person with mental retardation or a related condition is cared for by a parent or other relative with whom the person lives, that parent or relative is eligible to receive assistance on a monthly basis from the Division for each such person who lives and is cared for in the home if the Division finds that:

(a) The person with mental retardation or a related condition has been diagnosed as having profound or severe mental retardation or, if he or she is under 6 years of age, has developmental delays that require support that is equivalent to the support required by a person with profound or severe mental retardation or a related condition;

(b) The person with mental retardation or a related condition is receiving adequate care; and

(c) The person with mental retardation or a related condition and the parent or other relative with whom the person lives is not reasonably able to pay for his or her care and support.

↪ The amount of the assistance must be established by legislative appropriation for each fiscal year.

2. The Division shall adopt regulations:

(a) Which establish a procedure of application for assistance;

(b) For determining the eligibility of an applicant pursuant to subsection 1; and

(c) For determining the amount of assistance to be provided to an eligible applicant.

3. ~~The Division may~~ ***shall establish a waiting list for applicants who are eligible for assistance but who are denied assistance because the legislative appropriation is insufficient to provide assistance for all eligible applicants.***

4. The decision of the Division regarding eligibility for assistance or the amount of assistance to be provided is a final administrative decision.

Sec. 2. This act becomes 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.

The amendment requires the Division to perform these functions rather than authorizes.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 2.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 776.

"SUMMARY—Revises provisions relating to emissions testing for certain vehicles. (BDR 43-134)"

"AN ACT relating to motor vehicles; providing an exemption from emissions inspection for certain motor vehicles; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the issuance of special license plates for certain older motor vehicles in categories including antique vehicles, street rods, classic rods and classic vehicles. (NRS 482.381, 482.3812, 482.3814, 482.3816) Existing law also requires the State Environmental Commission to establish criteria that allow motor vehicles with such license plates to qualify for an exemption from standards for the control of emissions from motor vehicles, and to provide by regulation that an evaluation required of such motor vehicles to qualify for the exemption may be conducted at stations authorized to perform inspections of motor vehicles and devices for compliance with emissions standards. (NRS 445B.760)

Section 5 of this bill provides for the exemption of those older motor vehicles that have been issued the special license plates from standards for the control of emissions without the performance of any such evaluation if the owner of the motor vehicle certifies that the motor vehicle has not been driven more than 5,000 miles the previous year. **Sections ~~1-4~~ 1.7-4** of this bill require that the owner of such a motor vehicle which qualifies for the exemption pay a fee to the Department of Motor Vehicles, to be accounted for in the Pollution Control Account, in an amount equal to the cost for a certificate of compliance with emissions standards ~~1-1~~ **(currently \$6, but subject to statutory change).**

Section 1 of this bill provides that if an authorized inspection station or authorized station tests the emissions from a motor vehicle and the motor vehicle fails the emissions test, the Department of Motor Vehicles

is prohibited, for a period of 90 days after the motor vehicle fails the emissions test, from issuing for the motor vehicle an "Old Timer," "Street Rod," "Classic Rod" or "Classic Vehicle" special license plate. The effect of section 1 is to discourage persons from attempting to obtain such a special license plate for the express purpose of circumventing the laws of this State pertaining to emissions from motor vehicles. Section 1 applies only within the geographic areas of this State in which motor vehicles are subject to emissions testing.

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

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

1. If, with respect to a motor vehicle that is required to comply with the provisions of NRS 445B.700 to 445B.815, inclusive, and the regulations adopted pursuant thereto, an authorized inspection station or authorized station tests the emissions from the motor vehicle and the motor vehicle fails the emissions test, the Department shall not issue a special license plate for that vehicle pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816 for a period of 90 days after the motor vehicle fails the emissions test.

2. As used in this section:

(a) "Authorized inspection station" has the meaning ascribed to it in NRS 445B.710.

(b) "Authorized station" has the meaning ascribed to it in NRS 445B.720.

(c) "Fails the emissions test" means that a motor vehicle does not comply with the applicable provisions of NRS 445B.700 to 445B.815, inclusive, and the regulations adopted pursuant thereto.

~~{Section 1.}~~ Sec. 1.7. NRS 482.381 is hereby amended to read as follows:

482.381 1. ~~{The}~~ Except as otherwise provided in section 1 of this act, the Department may issue special license plates and registration certificates to residents of Nevada for any motor vehicle which is a model manufactured more than 40 years before the date of application for registration pursuant to this section.

2. License plates issued pursuant to this section must bear the inscription "Old Timer," and the plates must be numbered consecutively.

3. The Nevada Old Timer Club members shall bear the cost of the dies for carrying out the provisions of this section.

4. The Department shall charge and collect the following fees for the issuance of these license plates, which fees are in addition to all other license fees and applicable taxes:

- (a) For the first issuance\$35
- (b) For a renewal sticker 10

5. In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~of \$6~~ for the first issuance of the license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.

6. Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.

Sec. 2. NRS 482.3812 is hereby amended to read as follows:

482.3812 1. ~~The~~ **Except as otherwise provided in section 1 of this act, the** Department may issue special license plates and registration certificates to residents of Nevada for any passenger car or light commercial vehicle:

- (a) Having a manufacturer's rated carrying capacity of 1 ton or less; and
- (b) Manufactured not later than 1948.

2. License plates issued pursuant to this section must be inscribed with the words "STREET ROD" and three or four consecutive numbers.

3. If during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and:

(a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The fee for an annual renewal sticker is \$10.

5. In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~of \$6~~ for the first issuance of the special license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.

6. Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.

Sec. 3. NRS 482.3814 is hereby amended to read as follows:

482.3814 1. ~~The~~ **Except as otherwise provided in section 1 of this act, the** Department may issue special license plates and registration certificates to residents of Nevada for any passenger car or light commercial vehicle:

- (a) Having a manufacturer's rated carrying capacity of 1 ton or less; and

(b) Manufactured not earlier than 1949, but at least 20 years before the application is submitted to the Department.

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC ROD" and three or four consecutive numbers.

3. If during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and:

(a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and government services taxes. The fee for an annual renewal sticker is \$10.

5. In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~of \$6~~ for the first issuance of the special license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.

6. Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.

Sec. 4. NRS 482.3816 is hereby amended to read as follows:

482.3816 1. ~~The~~ ***Except as otherwise provided in section 1 of this act, the*** Department may issue special license plates and registration certificates to residents of Nevada for any passenger car or light commercial vehicle:

(a) Having a manufacturer's rated carrying capacity of 1 ton or less;

(b) Manufactured at least 25 years before the application is submitted to the Department; and

(c) Containing only the original parts which were used to manufacture the vehicle or replacement parts that duplicate those original parts.

2. License plates issued pursuant to this section must be inscribed with the words "CLASSIC VEHICLE" and three or four consecutive numbers.

3. If during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall retain the plates and:

(a) Affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. The fee for the special license plates is \$35, in addition to all other applicable registration and license fees and governmental services taxes. The fee for an annual renewal sticker is \$10.

5. *In addition to the fees required pursuant to subsection 4, the Department shall charge and collect a fee ~~of \$6~~ for the first issuance of the special license plates for those motor vehicles exempted pursuant to NRS 445B.760 from the provisions of NRS 445B.770 to 445B.815, inclusive. The amount of the fee must be equal to the amount of the fee for a form certifying emission control compliance set forth in paragraph (c) of subsection 1 of NRS 445B.830.*

6. *Fees paid to the Department pursuant to subsection 5 must be accounted for in the Pollution Control Account created by NRS 445B.830.*

Sec. 5. NRS 445B.760 is hereby amended to read as follows:

445B.760 1. The Commission may by regulation prescribe standards for exhaust emissions, fuel evaporative emissions and visible emissions of smoke from mobile internal combustion engines on the ground or in the air, including, but not limited to, aircraft, motor vehicles, snowmobiles and railroad locomotives. The regulations must ~~be~~:

—(a) ~~Provide~~ **provide** for the exemption from such standards of ~~restored vehicles~~ **a vehicle** for which special license plates have been issued pursuant to NRS 482.381, 482.3812, 482.3814 or 482.3816 ~~be~~;

—(b) ~~Establish criteria for the condition and functioning of a restored vehicle to qualify for the exemption, and provide that the evaluation of the condition and functioning of such a vehicle may be conducted at an authorized inspection station or authorized station as defined in NRS 445B.710 and 445B.720, respectively.~~

—(c) ~~Define "restored vehicle" for the purposes of the regulations.~~ **if the owner of such a vehicle certifies to the Department of Motor Vehicles, on a form provided by the Department of Motor Vehicles, that the vehicle was not driven more than 5,000 miles during the immediately preceding year.**

2. Except as otherwise provided in subsection 3, standards for exhaust emissions which apply to a:

(a) Reconstructed vehicle, as defined in NRS 482.100; and

(b) Trimobile, as defined in NRS 482.129,

↪ must be based on standards which were in effect in the year in which the engine of the vehicle was built.

3. A trimobile that meets the definition of a motorcycle in 40 C.F.R. § 86.402-78 or 86.402-98, as applicable, is not subject to emissions standards under this chapter.

4. Any such standards which pertain to motor vehicles must be approved by the Department of Motor Vehicles before they are adopted by the Commission.

Sec. 6. ~~[This act becomes effective on July 1, 2011.] (Deleted by amendment.)~~

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. 776 to Assembly Bill No. 2 makes the following changes. The amendment provides that if a motor vehicle fails an emissions test, the Department of Motor Vehicles is prohibited from issuing the motor vehicle an "Old Timer," "Street Rod," "Classic Rod," or "Classic Vehicle" license plate. The effect is to discourage persons from attempting to obtain a special license plate in order to circumvent emissions testing. This section applies only to the geographic areas in this State in which motor vehicles are subject to emissions testing, currently Clark and Washoe Counties only. The amendment adds Assemblyman Kirner as a primary sponsor and it changes the effective date from July 1, 2011 to October 1, 2011.

Amendment adopted.

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

Assembly Bill No. 53.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 673.

"SUMMARY—Revises provisions governing informational signage and other programs to provide information concerning commercial attractions and services along highways. (BDR 35-482)"

"AN ACT relating to transportation; requiring the Director of the Department of Transportation to charge fees based upon market value for authorizing the placement of trademarks or symbols identifying individual enterprises on certain signs and for providing information regarding attractions and services along highways of the State; authorizing the Director to recommend to the Board of Directors of the Department programs for providing information to the traveling public to be funded from money received from fees charged on those signs; **exempting certain signs located in a redevelopment area from certain restrictions on the proximity of advertising to certain highways in this State;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to adopt regulations to fix reasonable fees to recover the actual cost of administering a program for erecting certain signs on highways. Existing law provides that in certain larger counties, the Department is required to establish the fees based upon the market value as determined by the Department. **Section 3** of this bill instead requires the Department to fix the fees in all counties based upon market value as determined by the Department. Existing law provides that the fees collected by the Department are to be credited to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund. **Section 1** of this bill authorizes the Director to recommend to the Board of Directors of the Department

programs to provide information to the traveling public to be paid from money available for that purpose from the Account.

Existing law provides that outdoor advertising shall not be maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems of this State. Exemptions are provided for: (1) certain directional, warning, landmark, informational and other official signs; (2) signs which advertise the sale or lease of the property on which they are located or advertise for a business or activities conducted on the property on which they are located; (3) signs in zoned commercial or industrial areas; and (4) certain directional information signs in hardship areas which have been approved by the Secretary of Transportation pursuant to certain federal regulations. (NRS 410.320) Sections 10 and 13 of this bill provide an exemption from the 660-foot restriction for certain signs located in a redevelopment area.

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director may recommend to the Board, for its approval, programs to provide information to the traveling public to be paid from such money as is available for this purpose pursuant to NRS 408.567.

Sec. 2. NRS 408.551 is hereby amended to read as follows:

408.551 As used in NRS 408.551 to 408.567, inclusive, *and section 1 of this act*, "center" means a facility to provide information to members of the traveling public, concerning accommodations, food, fuel and recreation, through an attendant or some means of communication.

Sec. 3. NRS 408.557 is hereby amended to read as follows:

408.557 1. The Director shall adopt regulations:

(a) Governing the size, shape, lighting and other characteristics of a sign to be erected at ~~{such}~~ a location ~~{;}~~ *designated pursuant to NRS 408.553;*

(b) Authorizing the use of trademarks and symbols identifying an individual enterprise on a sign erected at the location;

(c) Fixing the qualifications of a person or governmental agency to operate a center and of an enterprise to be identified on a directional or informational sign;

(d) ~~{Fixing reasonable fees to recover the actual administrative cost incurred by the Department for:~~

~~— (1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and~~

~~— (2) Providing information concerning commercial attractions and services.~~

~~— (e) {~~ Fixing reasonable fees, based upon the market value as determined by the Department, for:

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign ~~{in an urban area of a county whose population is 100,000 or more;}~~ ; and

(2) Providing information ~~{in an urban area of a county whose population is 100,000 or more}~~ concerning commercial attractions and services; and

~~{(f)}~~ **(e)** Otherwise necessary to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~{,}~~, **and section 1 of this act.**

2. The regulations adopted by the Director pursuant to subsection 1 must be consistent with the provisions of 23 U.S.C. § 131.

Sec. 4. NRS 408.559 is hereby amended to read as follows:

408.559 The Department shall develop a plan, in cooperation with the Commission on Tourism, to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~{,}~~, **and section 1 of this act.** The plan must take into consideration such factors as:

1. Economic development in this state.
2. Availability of money for the purposes of NRS 408.551 to 408.567, inclusive ~~{,}~~, **and section 1 of this act.**
3. Population in a particular area.
4. Proposed highway construction.
5. Need for information.

↪ The Department and the Commission shall review the plan at least once each year and revise it until the provisions of NRS 408.551 to 408.567, inclusive, **and section 1 of this act** have been uniformly put into effect throughout the State.

Sec. 5. NRS 408.567 is hereby amended to read as follows:

408.567 1. Money received by the Department from:

(a) Fees for:

(1) Authorizing the use of trademarks and symbols identifying an individual enterprise on a directional or informational sign; and

(2) Providing information concerning commercial attractions and services;

(b) Participants in a telephone system established to reserve accommodations for travelers; and

(c) Appropriations made by the Legislature for the purposes of NRS 408.551 to 408.567, inclusive, **and section 1 of this act,**

↪ must be deposited with the State Treasurer for credit to the Account for Systems of Providing Information to the Traveling Public in the State Highway Fund, which is hereby created.

2. Money in the Account must only be used to carry out the provisions of NRS 408.551 to 408.567, inclusive ~~{,}~~, **and section 1 of this act.**

Sec. 6. Chapter 410 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this act.

Sec. 7. "Agency" has the meaning ascribed to it in NRS 279.386.

Sec. 8. "Redevelopment area" has the meaning ascribed to it in NRS 279.410.

Sec. 9. "Redevelopment project" has the meaning ascribed to it in NRS 279.412.

Sec. 10. 1. An application for a permit for a sign, display or device to be erected or maintained in a redevelopment area pursuant to subsection 7 of NRS 410.320 must be submitted to the Department, on a form provided by the Department, by the agency undertaking the redevelopment project. The application must include, without limitation:

(a) Certification by the agency that the sign, display or device meets the requirements of subsection 4 of NRS 410.320; and

(b) A finding by the agency that the sign, display or device will not result in a concentration of outdoor advertising that would have a negative impact on the safety or aesthetic quality of the redevelopment area.

2. The Department shall issue a permit upon receipt of an application that meets the requirements of subsection 1 unless the Department determines that the sign, display or device does not conform to the national standards adopted by the Secretary of Transportation pursuant to 23 U.S.C. § 131.

3. A permit issued pursuant to this section is valid for 10 years or until the completion of the redevelopment project, whichever occurs earlier. The Department may, for good cause shown by the agency that obtained the permit, allow for an extension of a permit beyond a 10-year period, provided that the redevelopment project has not been completed.

4. Upon expiration of a permit, the Department shall personally serve or send by registered or certified mail notice to the landowner and the owner of the sign, display or device that the sign, display or device must be removed within 30 days thereafter, unless the sign, display or device is otherwise exempt pursuant to subsections 1 to 6, inclusive, of NRS 410.320.

5. If a person fails to remove a sign, display or device pursuant to subsection 4, the Department may:

(a) Impose an administrative fine of \$10,000 plus \$100 per day for each day after the receipt of notice that the sign, display or device has not been removed;

(b) Impose an additional civil penalty equal to any gross revenue earned by the person from the sign, display or device during the period that:

(1) Begins on the date of receipt of the notice to remove the sign, display or device; and

(2) Ends on the date on which the sign, display or device is removed; and

(c) Charge the person any costs incurred by the Department in removing the sign, display or device.

Sec. 11. NRS 410.220 is hereby amended to read as follows:

410.220 1. The Legislature hereby finds and declares that:

(a) The erection and maintenance of outdoor advertising signs, displays and devices, in areas adjacent to the rights-of-way of the interstate highway system and the primary highway system within this state, is a legitimate commercial use of private property adjacent to roads and highways and that regulation and control or removal of such outdoor advertising is necessary to the system of state highways declared essential by NRS 408.100.

(b) The erection and maintenance of such advertising in such locations must be regulated:

(1) To prevent unreasonable distraction of operators of motor vehicles, confusion with regard to traffic lights, signs or signals and other interference with the effectiveness of traffic regulations;

(2) To promote the safety, convenience and enjoyment of travel on the state highways in this state;

(3) To attract tourists and promote the prosperity, economic well-being and general welfare of the State;

(4) For the protection of the public investment in the state highways; and

(5) To preserve and enhance the natural scenic beauty and aesthetic features of the highways and adjacent areas.

(c) All outdoor advertising which does not conform to the requirements of NRS 410.220 to 410.410, inclusive, **and sections 7 to 10, inclusive, of this act** is contrary to the public safety, health and general welfare of the people of this state.

(d) The removal of signs adjacent to the rights-of-way of the interstate or primary highway system within this state which provide directional information about goods and services in the interest of the traveling public and which:

(1) Were erected in conformance with the laws of the State of Nevada and subsequently became nonconforming under the requirements of 23 U.S.C. § 131; and

(2) Were in existence on May 6, 1976,
 ➤ could create substantial economic hardships in defined hardship areas within the State of Nevada.

2. It is the intent of the Legislature in NRS 410.220 to 410.410, inclusive, **and sections 7 to 10, inclusive, of this act** to provide a statutory basis for regulation of outdoor advertising consistent with the public policy declared by the Congress of the United States in areas adjacent to the interstate and primary highway systems.

Sec. 12. NRS 410.230 is hereby amended to read as follows:

410.230 As used in NRS 410.220 to 410.410, inclusive, **and sections 7 to 10, inclusive, of this act**, the words and terms defined in NRS 410.250 to 410.310, inclusive, **and sections 7, 8 and 9 of this act** have the meanings ascribed to them in those sections, unless a different meaning clearly appears in the context.

Sec. 13. NRS 410.320 is hereby amended to read as follows:

410.320 Outdoor advertising shall not be erected or maintained within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems in this state, and, outside urban areas outdoor advertising shall not be erected or maintained beyond 660 feet from the nearest edge of the right-of-way of the interstate and primary highway systems which is visible and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems in this state, except the following:

1. Directional, warning, landmark, informational and other official signs and notices, including but not limited to signs and notices pertaining to natural wonders, scenic and historic attractions. Only signs which are required or authorized by law or by federal, state or county authority, and which conform to national standards promulgated by the Secretary of Transportation pursuant to 23 U.S.C. § 131, are permitted.

2. Signs, displays and devices which advertise the sale or lease of the property upon which they are located.

3. Signs, displays and devices which advertise the activities conducted or services rendered or the goods produced or sold upon the property upon which the advertising sign, display or device is erected.

4. Signs, displays and devices located in zoned commercial or industrial areas, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

5. Signs, displays and devices located in an unzoned commercial or industrial area as defined in NRS 410.300, when located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate and primary highway systems within this state.

6. Nonconforming signs in defined hardship areas which provide directional information about goods and services in the interest of the traveling public and are approved by the Secretary of Transportation pursuant to 23 U.S.C. § 131(o).

7. Signs, displays and devices which:

(a) Are located within a redevelopment area;

(b) Advertise businesses or activities within the redevelopment area as part of the redevelopment project; and

(c) Have been:

(1) Approved by the agency undertaking the redevelopment project; and

(2) Issued a permit by the Department pursuant to an application submitted pursuant to section 10 of this act by the agency undertaking the redevelopment project.

Sec. 14. NRS 410.340 is hereby amended to read as follows:

410.340 1. Any outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway systems in this state,

and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, which was lawfully in existence and maintained on October 22, 1965, and which is not within one of the exceptions set forth in NRS 410.320, shall be removed no later than July 1, 1973, or 3 years from the date funds are available for such removal, except as provided in subsection 3.

2. ~~Any~~ **Except as otherwise provided in section 10 of this act, any** other outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any highway of the interstate or primary system, and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, and which is not within one of the exceptions set forth in NRS 410.320, shall be removed not later than the end of the fifth year after it becomes nonconforming.

3. Any outdoor advertising sign, display or device located within 660 feet of the nearest edge of the right-of-way and visible from the main-traveled way of the interstate or primary highway system, and, in the case of any outdoor advertising sign, display or device located beyond 660 feet from the nearest edge of the right-of-way for interstate and primary highway systems, which is located outside of urban areas and placed with the purpose of having its message read from the main-traveled way of the interstate and primary highway systems, and which is lawfully maintained on or after February 20, 1972, but which subsequently becomes nonconforming with the provisions of NRS 410.220 to 410.410, inclusive, by reason of amendment of such provisions or change in regulations or agreements prescribed or entered into as authorized by NRS 410.220 to 410.410, inclusive, may be maintained until the end of the fifth year after it becomes nonconforming.

4. No compensation shall be paid upon removal of any outdoor advertising sign, display or device erected after February 20, 1972, which as a result thereof become nonconforming. However, such outdoor advertising sign, display or device shall be removed only when all other outdoor advertising signs, displays or devices existing on February 20, 1972, have been removed.

Sec. 15. NRS 410.360 is hereby amended to read as follows:

410.360 1. Any outdoor advertising sign, display or device erected after February 20, 1972, which violates the provisions of NRS 410.220 to 410.410, inclusive, is hereby declared to be a public nuisance and the Director shall remove any such sign, display or device which is not removed

before the expiration of 30 days after notice of the violation and demand for removal have been served personally or by registered or certified mail upon the landowner and the owner of the sign or their agents. Removal by the Department of the sign, display or device on the failure of the owners to comply with the notice and demand gives the Department a right of action to recover the expense of the removal, cost and expenses of suit.

2. ~~{Any}~~ **Except as otherwise provided in section 10 of this act, any** person who erects or causes to be erected an outdoor advertising sign, display or device which violates the provisions of NRS 410.220 to 410.410, inclusive, shall pay to the Department:

- (a) For the first violation, a fine of \$50;
- (b) For the second violation, a fine of \$250;
- (c) For the third or subsequent violation, a fine of \$500 per violation; and
- (d) The reasonable costs of collection.

~~{Sec. 6.}~~ **Sec. 16.** This act becomes effective on July 1, 2011.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 673 to Assembly Bill No. 53 allows certain buildings in a redevelopment area to be exempt from restrictions on the placement of advertising adjacent to a public highway. An application for a permit to erect a sign, display, or device in a redevelopment area adjacent to a public highway must be approved by the Department of Transportation and meet certain requirements.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 80.

Bill read second time.

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

Amendment No. 686.

"SUMMARY—Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-496)"

"AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Board of the Public Employees' Benefits Program is required to submit various reports concerning the administration and operation of the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the Executive Officer of the Program, rather than the Board, responsible for submitting such reports.

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under

the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse or domestic partner, from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

Existing law provides for the payment of a subsidy to cover a portion of the costs of coverage under the Program for certain retired state officers and employees. (NRS 287.046) **Section 10** of this bill clarifies that employees who are initially hired by the State on or after January 1, 2010, are not entitled to the subsidy for coverage under the Program if they retire with less than 15 years of service, which must include state service and may include local governmental service, with the exception of disabled retirees, or if they fail to maintain continuous coverage under the Program during retirement. **Section 6** of this bill clarifies the application of this provision to persons who retire from employment with local governmental agencies.

Existing law provides that if a state officer or employee or a dependent of a state officer or employee incurs medical costs that are payable under the Program, but for which a third person has the legal liability to pay, the Board is subrogated to the rights of the officer, employee or dependent and may commence, join or intervene in any legal action against the third person to enforce that legal liability. (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any person who participates in the Program, including retired, as well as active, officers and employees of the State and their dependents and to active and retired officers and employees of local governments and their dependents who are covered under the Program.

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established

by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS **287.021**, 287.0477) **Sections 5 and 13** of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter. **Sections 5 and 13 also codify that the duration of the coverage for the surviving children of police officers and firefighters killed in the line of duty is the same as the duration of coverage for children otherwise in the public employer's health care plan.**

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Domestic partner" has the meaning ascribed to it NRS 122A.030.*

Sec. 3. 1. *The Executive Officer shall ~~not~~ submit a report regarding the administration and operation of the Program to the Board ~~of the Public Employees' Benefits Program~~ and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420. The report must include, without limitation:*

(a) An audited financial statement of the Program Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(b) An audited financial statement of the Retirees' Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(c) A report of the utilization of the Program by participants during the immediately preceding plan year, segregated by benefit, administrative cost, active employees and retirees, including, without limitation, an assessment of the actuarial accuracy of reserves.

(d) Material provided generally to participants or prospective participants in connection with enrollment in the Program for the current plan year, including, without limitation:

(1) Information regarding rates and the costs for participation in the Program paid by participants on a monthly basis; and

(2) A summary of the changes in the plan design for the current plan year from the plan design for the immediately preceding plan year.

2. *The Executive Officer shall submit a biennial report to the Board ~~of the Public Employees' Benefits Program,~~ and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:*

(a) *An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.*

(b) *A biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits. The review must be conducted by an attorney who specializes in employee benefits.*

Sec. 4. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in ~~subparagraph (2) of~~ paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~{Reinstatement}~~ *If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement* of insurance pursuant to subsection 1 ~~{excludes}~~ *may exclude* claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 4.5. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

↪ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

—5.‡ The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse , ***surviving domestic partner*** and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

↪ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse , ***surviving domestic partner*** or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group

insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, **domestic partner**, child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~{The}~~ **Except as otherwise provided in this section and NRS 287.023,** the local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical and hospital service for the surviving spouse or child who meets the requirements set forth in subsection 1.

3. A surviving spouse **or surviving domestic partner** is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~{-}~~ **or surviving domestic partner**. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~{-~~

~~—(a) The {the age of} {18} {26 years} {-}~~ or

~~—(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school. {- unless the plan is grandfathered pursuant to the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148.}~~ **the age at which the child would not otherwise be eligible to receive coverage under the group insurance, plan of benefits or medical and hospital service.**

4. **A local governmental agency is not required to pay the entire cost of** ~~{the premiums or contributions}~~ **health care benefits pursuant to subsection 2 for a surviving domestic partner who meets the requirements set forth in subsection 1.**

5. As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 6. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, during the period in which the person served as an officer or employee, was eligible to be covered or had dependents who were eligible to be covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to the officer or employee or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on

behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and any dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~is~~:

~~— (1) Were initially hired before January 1, 2010, and who retire and} are covered under the Program {pursuant to subsection 1 or who subsequently reinstate coverage under the Program pursuant to NRS 287.0205; or~~

~~— (2) Are initially hired on or after January 1, 2010, and who retire with:~~

~~— (I) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or~~

~~— (II) At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education.~~

~~➤} as the State pays pursuant to {subsection 1 of} NRS 287.046 for persons retired with state service who participate in the {Public Employees' Benefits} Program.~~

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing

actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, **and sections 2 and 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

↳ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h), by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired

officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, ***and sections 2 and 3 of this act***, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

~~[(i) Appoint an independent certified public accountant. The accountant shall:~~

~~— (1) Provide an annual audit of the Program; and~~

~~— (2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~— (j) Appoint an attorney who specializes in employee benefits. The attorney shall:~~

~~— (1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and~~

~~— (2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~— 3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:~~

~~— (a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

~~— (1) Participants who are active and retired state officers and employees and their dependents;~~

~~— (2) All participants in the Program other than those described in subparagraph (1); and~~

~~— (3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.~~

~~— (b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.~~

~~—(c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.~~

~~—(d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.~~

~~—(e) A discussion of activities of the Board concerning purchasing coalitions.~~

~~—4.} 3.~~ The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~{5.} 4.~~ The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~{6.} 5.~~ A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

~~{7.} 6.~~ As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 9. NRS 287.044 is hereby amended to read as follows:

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.

2. A member of the Senate or Assembly who elects to participate in the Program shall pay the entire premium or contribution for the member's insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount ~~{of the premium or contribution which is paid}~~ **allocated by the Board** pursuant to subsection ~~{1.} 6.~~

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the

coverage for the state officer or employee and such dependents and ~~the~~ **any** amount ~~paid by the participating state agency that employs the officer or employee.~~ **allocated by the Board pursuant to subsection 6.**

5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to ~~this section~~ **subsection 1** between the cost of premiums and contributions for group insurance for each state officer or employee, except a member of the Senate or Assembly, and the dependents of each state officer or employee.

Sec. 10. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service ~~. before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon ~~an~~ **a base** amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~such retirees.~~ **persons who retired before January 1, 1994, or for persons who retire on or after January 1, 1994, as adjusted by subsection 3.** Except as otherwise provided in subsection ~~4.~~ **5**, the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

3. ~~Adjustments~~ **Except as otherwise provided in subsection 4, adjustments** to the portion **of the amount approved by the Legislature pursuant to subsection 2 to be** paid by the Retirees' Fund ~~must be as follows:~~

—~~(a) For~~ **for** persons who retire on or after January 1, 1994, with state service ~~;~~

—~~(1)~~ **must be as follows:**

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~(2)~~ **(b)** For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~{(b) For persons who are}~~

4. No money may be paid by the Retirees' Fund on behalf of a retired person who is initially hired by the State on or after January 1, 2010, and who ~~{retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have}~~ :

(a) Has not participated in the Program on a continuous basis since ~~{their}~~ retirement from such employment ~~{, for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.}~~

~~—(c) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do} ; or~~

(b) Does not have at least 15 years of service ~~{credit to qualify under paragraph (b) as}~~, **which must include state service and may include local governmental service, unless the retired person does not have at least 15 years of service as** a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and ~~{who have}~~ **has** participated in the Program on a continuous basis since ~~{their}~~ retirement from such employment . ~~{}~~

~~——(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~——(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~—4.}~~ **5.** If the amount calculated pursuant to subsection 3 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~{5.}~~ **6.** For the purposes of subsection ~~{4.}~~ **3:**

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~{state}~~ service.

~~{6.}~~ **7.** The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired

participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 11. NRS 287.0465 is hereby amended to read as follows:

287.0465 1. If ~~{an officer or employee of the State or a dependent of such an officer or employee}~~ **a member** incurs an illness or injury for which medical services are payable under the plan for self-insurance established by the Board and the illness or injury is incurred under circumstances creating a legal liability in some person, other than the ~~{officer, employee or dependent}~~ **member**, to pay all or part of the cost of those services, the Board is subrogated to the right of the ~~{officer, employee or dependent}~~ **member** to the extent of all such costs, and may join or intervene in any action by the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to enforce that legal liability.

2. If ~~{an officer, employee or dependent}~~ **a member** or any ~~{successors}~~ **successor** in interest fail or refuse to commence an action to enforce that legal liability, the Board may commence an independent action, after notice to the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to recover all costs to which it is entitled. In any such action by the Board, the ~~{officer, employee or dependent}~~ **member** may be joined as a third party defendant.

3. If the Board is subrogated to the rights of the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~{officer, employee or dependent}~~ **member** or any successors in interest are not entitled to double recovery for the same injury.

4. The ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board in writing before entering any settlement or agreement or commencing any action to enforce the legal liability referred to in subsection 1.

5. *As used in this section, "member" means:*

(a) An active or retired officer or employee of the State or a dependent of such an officer or employee who is covered under the Program; and

(b) An active or retired officer or employee of a local governmental agency or a dependent of such an officer or employee who is covered under the Program.

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A retired public officer or employee or the surviving spouse **or surviving domestic partner** of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance

under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~[-], unless the retired public officer or employee is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.~~

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse *or surviving domestic partner* to reinstate the insurance not later than March 15 of an even-numbered year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~{3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.}~~

Sec. 13. NRS 287.0477 is hereby amended to read as follows:

287.0477 1. Except as otherwise provided in subsection 4, the surviving spouse , *surviving domestic partner* and any surviving child of a police officer or firefighter who was employed by a participating public agency and who was killed in the line of duty may join or continue coverage under the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 if the police officer or firefighter was a participant or would have been eligible to participate on the date of the death of the police officer or firefighter. If the surviving spouse , *surviving domestic partner* or child elects to join or discontinue coverage under the Public Employees' Benefits Program pursuant to this subsection, the spouse, *domestic partner*, child or legal guardian of the child must notify in writing the participating public agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. Except as otherwise provided in subsection 4, the surviving spouse , *surviving domestic partner* and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a

volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse, ***domestic partner*** or child elects to join the Public Employees' Benefits Program, the spouse, ***domestic partner***, child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

3. ~~{The}~~ ***Except as otherwise provided in this section, the*** participating public agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 for the surviving spouse or child who meets the requirements set forth in subsection 1. The State of Nevada shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program for the surviving spouse or child who elects to join the Public Employees' Benefits Program pursuant to subsection 2.

4. A surviving spouse ***or surviving domestic partner*** is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~{}~~ ***or surviving domestic partner***. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~{~~

—(a) ~~The~~ ~~{the age of}~~ ~~{18}~~ ~~{26 years.}~~ ~~{}~~; or

—(b) ~~The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school.}~~ ***the age at which the child would not otherwise be eligible to receive coverage under the Public Employees' Benefits Program.***

5. ***A participating public agency and the State of Nevada are not required to pay the entire cost of ~~{the premiums or contributions}~~ health care benefits pursuant to subsection 3 for a surviving domestic partner who elects to join the Public Employees' Benefits Program pursuant to subsection 2.***

6. As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 14. NRS 287.04366 is hereby repealed.

Sec. 15. 1. This section and sections 4 and 12 of this act become effective on July 1, 2011.

2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act become effective on October 1, 2011.

3. ~~{Section 4 of this act expires by limitation on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.}~~

~~4.}~~ Section 4.5 of this act becomes effective on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.

TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;
2. An annual report concerning the Retirees' Fund; and
3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 686 to Assembly Bill No. 80 relates to the Public Employees' Benefits Program. It deletes specific provisions relating to the age of eligibility of a surviving child and inserts provisions that the surviving child is eligible to receive coverage until the age at which the child would not otherwise be eligible under the provisions of the insurance plan or program.

Amendment adopted.

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

Assembly Bill No. 152.

Bill read second time and ordered to third reading.

Assembly Bill No. 204.

Bill read second time and ordered to third reading.

Assembly Bill No. 212.

Bill read second time and ordered to third reading.

Assembly Bill No. 232.

Bill read second time and ordered to third reading.

Assembly Bill No. 257.

Bill read second time.

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

Amendment No. 591.

"SUMMARY—Revises provisions relating to the Open Meeting Law. (BDR 19-107)"

"AN ACT relating to the Open Meeting Law; revising provisions governing periods devoted to public comment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Open Meeting Law requires that meetings of public bodies be open to the public, with limited exceptions. Under the Open Meeting Law, a public body is required to provide written notice of all such meetings, which must

include an agenda with a period devoted to comments by the general public and discussion of those comments. However, a public body is prohibited from taking action upon a matter that is raised during such a period for public comment until the matter has been specifically included on an agenda and is denoted to be an item upon which the public body may take action. (NRS 241.020) This bill requires the public body, at a minimum, to provide ~~two separate~~ periods devoted to public comment ~~and discussion of any public comments as follows:~~ (1) one period at the beginning of the meeting ~~before any items on which action may be taken are heard by the public body and~~ ~~(2) one period before the adjournment of the meeting,~~ each of which must allow for discussion of any public comments; or (2) a period after each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

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

Section 1. 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.

(3) ~~[A period] [At least two periods]~~ Periods devoted to comments by the general public, if any, ~~[which must be taken at the beginning of the meeting and before the adjournment of the meeting.]~~ and discussion of those comments. Comments by the general public must be taken:

(I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting; or

(II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.

↪ The provisions of this subparagraph do not prohibit a public body from taking comments by the general public in addition to what is required pursuant to sub-subparagraph (I) or (II). No action may be taken upon a matter raised ~~{under this item of the agenda}~~ **during a period devoted to comments by the general public** 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.

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. 2. This act becomes effective on July 1, 2011.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

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

Amendment No. 591 to Assembly Bill No. 257 provides that an agenda for a public meeting include the following options for public comment. At least two periods for public comment, one at the beginning of the meeting before any action items and one prior to adjournment, or after each action item on the agenda, but before the public body takes action on that item.

It clarifies that a public body may take further public comment in addition to what is required in the amendment.

Amendment adopted.

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

Assembly Bill No. 258.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 777.

"SUMMARY—Revises provisions governing the licensing and operation of interactive gaming. (BDR 41-657)"

"AN ACT relating to gaming; requiring the Nevada Gaming Commission to adopt regulations relating to the licensing and operation of interactive gaming; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes certain gaming establishments to obtain a license to operate interactive gaming. (NRS 463.750) This bill requires the Nevada Gaming Commission to establish by regulation certain provisions authorizing the licensing and operation of interactive gaming under certain circumstances. This bill further provides that a license to operate interstate interactive gaming does not become effective until: (1) the passage of federal legislation authorizing interactive gaming; or (2) the United States Department of Justice notifies the Commission or the State Gaming Control Board that interactive gaming is permissible under federal law.

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

Section 1. Chapter 463 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *The Legislature hereby finds and declares that:*

1. The State of Nevada leads the nation in gaming regulation and enforcement, such that the State of Nevada is uniquely positioned to develop an effective and comprehensive regulatory structure related to interactive gaming.

2. A comprehensive regulatory structure, coupled with strict licensing standards, will ensure the protection of consumers, prevent fraud, guard against underage and problem gambling and aid in law enforcement efforts.

3. *To provide for licensed and regulated interactive gaming and to prepare for possible federal legislation, the State of Nevada must develop the necessary structure for licensure, regulation and enforcement.*

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. 10.5. NRS 463.016425 is hereby amended to read as follows:

463.016425 1. "Interactive gaming" means the conduct of gambling games through the use of communications technology that allows a person, utilizing money, checks, electronic checks, electronic transfers of money, credit cards, debit cards or any other instrumentality, to transmit to a computer information to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. The term ~~{does}~~ :

(a) *Includes, without limitation, Internet poker.*

(b) *Does* not include the operation of a race book or sports pool that uses communications technology approved by the Board pursuant to regulations adopted by the Commission to accept wagers originating within this state for races, or sporting events or other events.

2. As used in this section, "communications technology" means any method used and the components employed by an establishment to facilitate the transmission of information, including, without limitation, transmission and reception by systems based on wire, cable, radio, microwave, light, optics or computer data networks, including, without limitation, the Internet and intranets.

Sec. 11. NRS 463.160 is hereby amended to read as follows:

463.160 1. Except as otherwise provided in subsection 4 and NRS 463.172, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others:

(a) To deal, operate, carry on, conduct, maintain or expose for play in the State of Nevada any gambling game, gaming device, inter-casino linked system, mobile gaming system, slot machine, race book or sports pool;

(b) To provide or maintain any information service;

(c) To operate a gaming salon; ~~{or}~~

(d) To receive, directly or indirectly, any compensation or reward or any percentage or share of the money or property played, for keeping, running or carrying on any gambling game, slot machine, gaming device, mobile gaming system, race book or sports pool ~~{;}~~ ; **or**

(e) *To operate, carry on, conduct, maintain or expose for play in or from the State of Nevada any interactive gaming system,*

↳ without having first procured, and thereafter maintaining in effect, all federal, state, county and municipal gaming licenses as required by statute, regulation or ordinance or by the governing board of any unincorporated town.

2. The licensure of an operator of an inter-casino linked system is not required if:

(a) A gaming licensee is operating an inter-casino linked system on the premises of an affiliated licensee; or

(b) An operator of a slot machine route is operating an inter-casino linked system consisting of slot machines only.

3. Except as otherwise provided in subsection 4, it is unlawful for any person knowingly to permit any gambling game, slot machine, gaming device, inter-casino linked system, mobile gaming system, race book or sports pool to be conducted, operated, dealt or carried on in any house or building or other premises owned by the person, in whole or in part, by a person who is not licensed pursuant to this chapter, or that person's employee.

4. The Commission may, by regulation, authorize a person to own or lease gaming devices for the limited purpose of display or use in the person's private residence without procuring a state gaming license.

5. As used in this section, "affiliated licensee" has the meaning ascribed to it in NRS 463.430.

Sec. 12. NRS 463.750 is hereby amended to read as follows:

463.750 1. ~~{Except as otherwise provided in subsections 2 and 3, the}~~
The Commission ~~{may,}~~ **shall**, with the advice and assistance of the Board, adopt regulations governing the licensing and operation of interactive gaming.

2. ~~{The Commission may not adopt regulations governing the licensing and operation of interactive gaming until the Commission first determines that:~~

—(a) Interactive gaming can be operated in compliance with all applicable laws;

—(b) Interactive gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from jurisdictions where it is lawful to make such communications; and

—(c) Such regulations are consistent with the public policy of the State to foster the stability and success of gaming.

—3.} The regulations adopted by the Commission pursuant to this section must:

(a) Establish the investigation fees for:

(1) A license to operate interactive gaming;

(2) A license for a manufacturer of interactive gaming systems; and

(3) A license for a manufacturer of equipment associated with interactive gaming.

(b) Provide that:

(1) A person must hold a license for a manufacturer of interactive gaming systems to supply or provide any interactive gaming system, including, without limitation, any piece of proprietary software or hardware; and

(2) A person may be required by the Commission to hold a license for a manufacturer of equipment associated with interactive gaming.

(c) Set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems or manufacturer of equipment associated with interactive gaming that are as stringent as the standards for a nonrestricted license.

(d) Provide that gross revenue received by an establishment from the operation of interactive gaming is subject to the same license fee provisions of NRS 463.370 as the games and gaming devices of the establishment ~~but~~, ***unless federal law otherwise provides for a similar fee or tax.***

(e) Set forth standards for the location and security of the computer system and for approval of hardware and software used in connection with interactive gaming.

(f) Define "equipment associated with interactive gaming," "interactive gaming system," "manufacturer of equipment associated with interactive gaming," "manufacturer of interactive gaming systems," "operate interactive gaming" and "proprietary hardware and software" as the terms are used in this chapter.

~~{4-}~~ (g) ***Provide that any license to operate interstate interactive gaming does not become effective until:***

(1) A federal law authorizing the specific type of interactive gaming for which the license was granted is enacted; or

(2) The United States Department of Justice notifies the Board or Commission in writing that it is permissible under federal law to operate the specific type of interactive gaming for which the license was granted.

3. Except as otherwise provided in ~~{subsection 5,}~~ ***subsections 4 and 5,*** the Commission shall not approve a license for an establishment to operate interactive gaming unless:

(a) In a county whose population is 400,000 or more, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices.

(b) In a county whose population is more than 40,000 but less than 400,000, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Holds a nonrestricted license for the operation of games and gaming devices;

(2) Has more than 120 rooms available for sleeping accommodations in the same county;

(3) Has at least one bar with permanent seating capacity for more than 30 patrons that serves alcoholic beverages sold by the drink for consumption on the premises;

(4) Has at least one restaurant with permanent seating capacity for more than 60 patrons that is open to the public 24 hours each day and 7 days each week; and

(5) Has a gaming area that is at least 18,000 square feet in area with at least 1,600 slot machines, 40 table games, and a sports book and race pool.

(c) In all other counties, the establishment is a resort hotel that holds a nonrestricted license to operate games and gaming devices or the establishment:

(1) Has held a nonrestricted license for the operation of games and gaming devices for at least 5 years before the date of its application for a license to operate interactive gaming;

(2) Meets the definition of group 1 licensee as set forth in the regulations of the Commission on the date of its application for a license to operate interactive gaming; and

(3) Operates either:

(I) More than 50 rooms for sleeping accommodations in connection therewith; or

(II) More than 50 gaming devices in connection therewith.

~~{5-}~~ 4. The Commission may:

(a) Issue a license to operate interactive gaming to an affiliate of an establishment if:

(1) The establishment satisfies the applicable requirements set forth in subsection ~~{4; and}~~ 3;

(2) The affiliate is located in the same county as the establishment; and

(3) The establishment has held a nonrestricted license for at least 5 years before the date on which the application is filed; and

(b) Require an affiliate that receives a license pursuant to this subsection to comply with any applicable provision of this chapter.

~~{6-}~~ 5. ***The Commission may issue a license to operate interactive gaming to an applicant that meets any qualifications established by federal law regulating the licensure of interactive gaming.***

6. It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, either solely or in conjunction with others, to operate interactive gaming:

(a) Until the Commission adopts regulations pursuant to this section; and

(b) Unless the person first procures, and thereafter maintains in effect, all appropriate licenses as required by the regulations adopted by the Commission pursuant to this section.

7. A person who violates subsection 6 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years or by a fine of not more than \$50,000, or both.

Sec. 12.5. NRS 463.770 is hereby amended to read as follows:

463.770 1. ~~{A-}~~ **Unless federal law otherwise provides for a similar fee or tax, all** gross revenue from operating interactive gaming received by

an establishment licensed to operate interactive gaming, regardless of whether any portion of the revenue is shared with another person, must be attributed to the licensee and counted as part of the gross revenue of the licensee for the purpose of computing the license fee required by NRS 463.370.

2. A manufacturer of interactive gaming systems who is authorized by an agreement to receive a share of the revenue from an interactive gaming system from an establishment licensed to operate interactive gaming is liable to the establishment for a portion of the license fee paid pursuant to subsection 1. The portion for which the manufacturer of interactive gaming systems is liable is 6.75 percent of the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to the agreement.

3. For the purposes of subsection 2, the amount of revenue to which the manufacturer of interactive gaming systems is entitled pursuant to an agreement to share the revenue from an interactive gaming system:

(a) Includes all revenue of the manufacturer of interactive gaming systems that is the manufacturer of interactive gaming systems' share of the revenue from the interactive gaming system pursuant to the agreement; and

(b) Does not include revenue that is the fixed purchase price for the sale of a component of the interactive gaming system.

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 14.5. The Nevada Gaming Commission shall, on or before January 31, 2012, adopt regulations to carry out the amendatory provisions 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 clarifies two things. A federal law may provide for a similar fee or tax on all gross revenue from interactive gaming and regulations adopted by the Nevada Gaming Commission pursuant to federal law apply to licenses to operate interstate interactive gaming.

Amendment adopted.

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

Assembly Bill No. 322.

Bill read second time.

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

Amendment No. 714.

"SUMMARY—Revises provisions relating to wildlife. (BDR 45-150)"

"AN ACT relating to wildlife; revising the membership of the Board of Wildlife Commissioners to include one member who **is actively engaged in conservation and** possesses experience and expertise in advocating issues

relating to conservation; revising the circumstances under which the Director of the Department of Wildlife is appointed; revising the provisions governing a program for the issuance of certain additional big game tags each year; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates the Board of Wildlife Commissioners, consisting of nine members appointed by the Governor, and confers broad authority upon the Commission to manage wildlife and its habitat in this State. (NRS 501.105, 501.167, 501.181) Of those nine members, existing law requires one member to be a person who is actively engaged in the conservation of wildlife. (NRS 501.171) **Section 1** of this bill revises the qualifications of that member to require **him or her to be actively engaged in conservation and to possess** experience and expertise in advocating issues relating to conservation.

Existing law requires the Governor to appoint the Director of the Department of Wildlife from among three or more persons nominated by the Commission. (NRS 501.333) **Section 2** of this bill revises that requirement to allow the Governor additional discretion in appointing the Director.

Existing law authorizes the Commission to establish a program for the issuance of additional big game tags each year, known as "Dream Tags," to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk. The program must award the big game tags through a raffle conducted by a certain nonprofit organization. The money received by the nonprofit organization from the proceeds of the raffle, less any administrative costs, must be used to preserve, protect, manage or restore game and its habitat. (NRS 502.219) In lieu of authorizing the Commission to establish such a program, **section 3** of this bill establishes that program by statute.

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

Section 1. NRS 501.171 is hereby amended to read as follows:

501.171 1. A county advisory board to manage wildlife shall submit written nominations for appointments to the Commission upon the request of the Governor and may submit nominations at any other time.

2. After consideration of the written nominations submitted by a county advisory board to manage wildlife and any additional candidates for appointment to the Commission, the Governor shall appoint to the Commission:

(a) One member who is actively engaged in ~~the~~ and possesses *experience and expertise in advocating issues relating to* conservation ; ~~of~~ ~~wildlife;~~

(b) One member who is actively engaged in farming;

(c) One member who is actively engaged in ranching;

(d) One member who represents the interests of the general public; and

(e) Five members who during at least 3 of the 4 years immediately preceding their appointment held a resident license to fish or hunt, or both, in Nevada.

3. The Governor shall not appoint to the Commission any person who has been convicted of:

- (a) A felony or gross misdemeanor for a violation of NRS 501.376;
- (b) A gross misdemeanor for a violation of NRS 502.060;
- (c) A felony or gross misdemeanor for a violation of NRS 504.395; or
- (d) Two or more violations of the provisions of chapters 501 to 504,

inclusive, of NRS,

↳ during the previous 10 years.

4. Not more than three members may be from the same county whose population is 400,000 or more, not more than two members may be from the same county whose population is 100,000 or more but less than 400,000, and not more than one member may be from the same county whose population is less than 100,000.

5. The Commission shall annually select a Chair and a Vice Chair from among its members. A person shall not serve more than two consecutive terms as Chair.

Sec. 2. NRS 501.333 is hereby amended to read as follows:

501.333 1. ~~{From among three or more nominees of the Commission, the}~~ **The** Governor shall appoint a Director of the Department, who is its Chief Administrative Officer. The Director serves at the pleasure of the Governor.

2. The Governor shall select as Director a person having an academic degree in the management of wildlife or a closely related field, substantial experience in the management of wildlife and a demonstrated ability to administer a major public agency. ***When appointing the Director, the Governor may consider any person nominated by the Commission.***

3. The Director is in the unclassified service of the State.

Sec. 3. NRS 502.219 is hereby amended to read as follows:

502.219 1. ~~{The Commission may establish a}~~ **A** program ***is hereby established*** for the issuance of additional big game tags each year to be known as "Dream Tags." ~~{If the Commission establishes such a program, the}~~ **The** program must provide:

(a) For the issuance of Dream Tags to either a resident or nonresident of this State;

(b) For the issuance of one Dream Tag for each species of big game for which 50 or more tags were available under the quota established for the species by the Commission during the previous year; and

(c) For the sale of Dream Tags to a nonprofit organization pursuant to this section.

2. The ~~{Commission may adopt regulations establishing such other provisions concerning Dream Tags as the Commission determines reasonable or necessary in carrying out the program.}~~ **Department shall administer the**

program and shall take such actions as the Department determines are necessary to carry out the provisions of this section and NRS 502.222 and 502.225.

3. A nonprofit organization established through the Community Foundation of Western Nevada which is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and which has as its principal purpose the preservation, protection, management or restoration of wildlife and its habitat may purchase such Dream Tags from the Department, ~~{as are authorized by the Commission,}~~ at prices established by the ~~{Commission,}~~ **Department**, subject to the following conditions:

(a) The nonprofit organization must agree to award the Dream Tags by raffle, with unlimited chances to be sold for \$5 each to persons who purchase a resource enhancement stamp pursuant to NRS 502.222.

(b) The nonprofit organization must agree to enter into a contract with a private entity that is approved by the Department which requires that the private entity agree to act as the agent of the nonprofit organization to sell chances to win Dream Tags, conduct any required drawing for Dream Tags and issue Dream Tags. For the purposes of this paragraph, a private entity that has entered into a contract with the Department pursuant to NRS 502.175 to conduct a drawing and to award and issue tags or permits as established by the Commission shall be deemed to be approved by the Department.

(c) All money received by the nonprofit organization from the proceeds of the Dream Tag raffle, less the cost of the Dream Tags purchased by the nonprofit organization and any administrative costs charged by the Community Foundation of Western Nevada, must be used for the preservation, protection, management or restoration of game and its habitat, as determined by the Advisory Board on Dream Tags created by NRS 502.225.

4. All money received by the Department for Dream Tags pursuant to this section must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

5. The nonprofit organization shall, on or before February 1 of each year, report to the ~~{Commission}~~ **Department** and the Interim Finance Committee concerning the Dream Tag program, including, without limitation:

(a) The number of Dream Tags issued during the immediately preceding calendar year;

(b) The total amount of money paid to the Department for Dream Tags during the immediately preceding calendar year;

(c) The total amount of money received by the nonprofit organization from the proceeds of the Dream Tag raffle, the amount of such money expended by the nonprofit organization and a description of each project for which the money was spent; and

(d) Any recommendations concerning the ~~{continuation of the}~~ program or necessary legislation.

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 4. 1. As soon as practicable after the effective date of this section, the Governor shall appoint one member of the Board of Wildlife Commissioners who is qualified pursuant to paragraph (a) of subsection 2 of NRS 501.171, as amended by section 1 of this act.

2. The term of the member of the Board of Wildlife Commissioners who was appointed pursuant to paragraph (a) of subsection 2 of NRS 501.171 before the effective date of this section expires:

(a) Upon the expiration of the term for which he or she was appointed; or

(b) Upon the appointment by the Governor of the member specified in subsection 1,

☛ whichever occurs first.

Sec. 5. 1. This section and sections 1, 2 and 4 of this act become effective upon passage and approval.

2. Section 3 of this act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

This amendment restores the language referencing "actively engaged" in relation to the qualification of the conservation representative on the Board of Wildlife Commissioners.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 328.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 675.

"SUMMARY—Enacts provisions relating to vulnerable highway users. (BDR 43-844)"

"AN ACT relating to motor vehicles; providing that a person who, while violating certain rules of the road, causes a collision with a pedestrian or person riding a bicycle has committed reckless driving; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain conduct by a driver of a vehicle constitutes reckless driving. (NRS 484B.653) **Section 31** of this bill provides that a person who, while violating certain rules of the road relating to bicycles, pedestrians, crosswalks, school crossing guards, school zones or speeding, is the proximate cause of a collision with a pedestrian or person riding a bicycle has committed reckless driving.

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. 12.3. NRS 483.460 is hereby amended to read as follows:

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

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

(1) A violation of subsection ~~{5}~~ 6 of NRS 484B.653.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 12.5. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484C.110, and one-half of the period during

which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his or her work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her immediate family.

➤ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if the applicant is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484C.460:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which the person is not eligible for a license, if the person was convicted of:

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

(II) A violation of NRS 484C.110 that is punishable as a felony pursuant to NRS 484C.410 or 484C.420;

(2) After at least 180 days of the period during which the person is not eligible for a license, if the person was convicted of a violation of subsection ~~5~~ 6 of NRS 484B.653; or

(3) After at least 45 days of the period during which the person is not eligible for a license, if the person was convicted of a first violation within 7 years of NRS 484C.110.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484C.460, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both; or

(b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both;

(b) To receive regularly scheduled medical care for himself, herself or a member of his or her immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484C.110, 484C.210 or 484C.430;

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

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

➔ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 12.7. NRS 484B.270 is hereby amended to read as follows:

484B.270 1. The driver of a motor vehicle shall not:

(a) Intentionally interfere with the movement of a person lawfully riding a bicycle or an electric bicycle; or

(b) Overtake and pass a person riding a bicycle or an electric bicycle unless the driver can do so safely without endangering the person riding the bicycle or electric bicycle.

2. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle or an electric bicycle on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles or electric bicycles except:

(a) When entering or exiting an alley or driveway;

(b) When operating or parking a disabled vehicle;

(c) To avoid conflict with other traffic;

(d) In the performance of official duties;

(e) In compliance with the directions of a police officer; or

(f) In an emergency.

3. Except as otherwise provided in subsection 2, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles or electric bicycles.

4. The driver of a motor vehicle shall:

(a) Exercise due care to avoid a collision with a person riding a bicycle or an electric bicycle; and

(b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

5. *If, while violating any provision of subsections 1 to 4, inclusive, the driver of a motor vehicle is the proximate cause of a collision with a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

6. The operator of a bicycle or an electric bicycle shall not:

(a) Intentionally interfere with the movement of a motor vehicle; or

(b) Overtake and pass a motor vehicle unless the operator can do so safely without endangering himself or herself or the occupants of the motor vehicle.

Sec. 13. NRS 484B.280 is hereby amended to read as follows:

484B.280 **1.** A driver of a motor vehicle shall:

~~{1-}~~ (a) Exercise due care to avoid a collision with a pedestrian;

~~{2-}~~ (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision; and

~~{3-}~~ (c) Exercise proper caution upon observing a pedestrian ~~on~~ ;

(1) On or near a highway, street or road ;

(2) At or near a bus stop or bench, shelter or transit stop for passengers of public mass transportation or in the act of boarding a bus or other public transportation vehicle; or ~~{11-}~~

(3) In or near a school crossing zone marked in accordance with NRS 484B.363 or a marked or unmarked crosswalk.

2. *If, while violating any provision of this section, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 14. NRS 484B.283 is hereby amended to read as follows:

484B.283 **1.** Except as otherwise provided in NRS 484B.287, 484B.290 and 484B.350:

~~{1-}~~ (a) When official traffic-control devices are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the highway within a crosswalk when the pedestrian is upon the half of the highway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the highway as to be in danger.

~~{2-}~~ (b) A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

~~{3-}~~ (c) Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of any other vehicle

approaching from the rear shall not overtake and pass the stopped vehicle until the driver has determined that the vehicle being overtaken was not stopped for the purpose of permitting a pedestrian to cross the highway.

~~{(a)}~~ **(d)** Whenever signals exhibiting the words "Walk" or "Don't Walk" are in place, such signals indicate as follows:

~~{(a)}~~ **(1)** While the "Walk" indication is illuminated, pedestrians facing the signal may proceed across the highway in the direction of the signal and must be given the right-of-way by the drivers of all vehicles.

~~{(b)}~~ **(2)** While the "Don't Walk" indication is illuminated, either steady or flashing, a pedestrian shall not start to cross the highway in the direction of the signal, but any pedestrian who has partially completed the crossing during the "Walk" indication shall proceed to a sidewalk, or to a safety zone if one is provided.

~~{(c)}~~ **(3)** Whenever the word "Wait" still appears in a signal, the indication has the same meaning as assigned in this section to the "Don't Walk" indication.

~~{(d)}~~ **(4)** Whenever a signal system provides a signal phase for the stopping of all vehicular traffic and the exclusive movement of pedestrians, and "Walk" and "Don't Walk" indications control pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection when the "Walk" indication is exhibited, and when signals and other official traffic-control devices direct pedestrian movement in the manner provided in this section and in NRS 484B.307.

2. *If, while violating paragraph (a) or (c) of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. NRS 484B.350 is hereby amended to read as follows:

484B.350 1. The driver of a vehicle:

(a) Shall stop in obedience to the direction or traffic-control signal of a school crossing guard; and

(b) Shall not proceed until the highway is clear of all persons, including, without limitation, the school crossing guard.

2. A person who violates ~~{any of the provisions of this section}~~ **subsection 1** is guilty of a misdemeanor.

3. ***If, while violating subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

4. As used in this section, "school crossing guard" means a volunteer or paid employee of a local authority, local law enforcement agency or school district whose duties include assisting pupils to cross a highway.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 484B.363 is hereby amended to read as follows:

484B.363 1. A person shall not drive a motor vehicle at a speed in excess of 15 miles per hour in an area designated as a school zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

2. A person shall not drive a motor vehicle at a speed in excess of 25 miles per hour in an area designated as a school crossing zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

3. The governing body of a local government or the Department of Transportation shall designate school zones and school crossing zones. An area must not be designated as a school zone if imposing a speed limit of 15 miles per hour would be unsafe because of higher speed limits in adjoining areas.

4. Each such governing body and the Department shall provide signs to mark the beginning and end of each school zone and school crossing zone which it respectively designates. Each sign marking the beginning of such a zone must include a designation of the hours when the speed limit is in effect or that the speed limit is in effect when children are present.

5. With respect to each school zone and school crossing zone in a school district, the superintendent of the school district or his or her designee, in conjunction with the Department of Transportation and the governing body of the local government that designated the school zone or school crossing zone and after consulting with the principal of the school and the agency that

is responsible for enforcing the speed limit in the zone, shall determine the times when the speed limit is in effect.

6. *If, while violating subsection 1 or 2, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

7. As used in this section, "speed limit beacon" means a device which is used in conjunction with a sign and equipped with two or more yellow lights that flash alternately to indicate when the speed limit in a school zone or school crossing zone is in effect.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. NRS 484B.600 is hereby amended to read as follows:

484B.600 1. It is unlawful for any person to drive or operate a vehicle of any kind or character at:

(a) A rate of speed greater than is reasonable or proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions.

(b) Such a rate of speed as to endanger the life, limb or property of any person.

(c) A rate of speed greater than that posted by a public authority for the particular portion of highway being traversed.

(d) In any event, a rate of speed greater than 75 miles per hour.

2. *If, while violating any provision of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

3. A person who violates any provision of ~~this section~~ **subsection 1** may be subject to the additional penalty set forth in NRS 484B.130.

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. NRS 484B.653 is hereby amended to read as follows:

484B.653 1. It is unlawful for a person to:

(a) Drive a vehicle in willful or wanton disregard of the safety of persons or property.

(b) Drive a vehicle in an unauthorized speed contest on a public highway.

(c) Organize an unauthorized speed contest on a public highway.

➔ A violation of paragraph (a) or (b) of this subsection or subsection 1 of NRS 484B.550 constitutes reckless driving.

2. *If, while violating the provisions of subsections 1 to 4, inclusive, of NRS 484B.270, NRS 484B.280, paragraph (a) or (c) of subsection 1 of*

NRS 484B.283, NRS 484B.350, subsection 1 or 2 of NRS 484B.363 or subsection 1 of NRS 484B.600, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the violation constitutes reckless driving.

3. A person who violates paragraph (a) of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense, shall be punished:

- (1) By a fine of not less than \$250 but not more than \$1,000; or
- (2) By both fine and imprisonment in the county jail for not more than 6 months.

(b) For the second offense, shall be punished:

- (1) By a fine of not less than \$1,000 but not more than \$1,500; or
- (2) By both fine and imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense, shall be punished:

- (1) By a fine of not less than \$1,500 but not more than \$2,000; or
- (2) By both fine and imprisonment in the county jail for not more than 6 months.

~~{3-}~~ 4. A person who violates paragraph (b) or (c) of subsection 1 ***or commits a violation which constitutes reckless driving pursuant to subsection 2*** is guilty of a misdemeanor and:

(a) For the first offense:

- (1) Shall be punished by a fine of not less than \$250 but not more than \$1,000;

(2) Shall perform not less than 50 hours, but not more than 99 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense:

- (1) Shall be punished by a fine of not less than \$1,000 but not more than \$1,500;

(2) Shall perform not less than 100 hours, but not more than 199 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense:

- (1) Shall be punished by a fine of not less than \$1,500 but not more than \$2,000;

(2) Shall perform 200 hours of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

~~{4-}~~ 5. In addition to any fine, community service and imprisonment imposed upon a person pursuant to subsection ~~{3-}~~ 4, the court:

(a) Shall issue an order suspending the driver's license of the person for a period of not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person;

(b) Within 5 days after issuing an order pursuant to paragraph (a), shall forward to the Department any licenses, together with a copy of the order;

(c) For the first offense, may issue an order impounding, for a period of 15 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense; and

(d) For the second and each subsequent offense, shall issue an order impounding, for a period of 30 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense.

~~{5-}~~ 6. Unless a greater penalty is provided pursuant to subsection 4 of NRS 484B.550, a person who does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle in willful or wanton disregard of the safety of persons or property, if the act or neglect of duty proximately causes the death of or substantial bodily harm to another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years and by a fine of not less than \$2,000 but not more than \$5,000.

~~{6-}~~ 7. A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130 unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484B.550.

~~{7-}~~ 8. As used in this section, "organize" means to plan, schedule or promote, or assist in the planning, scheduling or promotion of, an unauthorized speed contest on a public highway, regardless of whether a fee is charged for attending the unauthorized speed contest.

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Senator Breeden moved the adoption of the amendment.

Amendment adopted.

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

The following amendment was proposed by Senator Leslie:

Amendment No. 816.

"SUMMARY—Enacts provisions relating to ~~{vulnerable highway users-}~~
rules of the road. (BDR 43-844)"

"AN ACT relating to ~~{motor vehicles-}~~ **rules of the road;** providing that a person who, while violating certain rules of the road, causes a collision with a pedestrian or person riding a bicycle has committed reckless driving;
authorizing a county fair and recreation board or a veterans'

organization, under certain circumstances, to place street banners along roads and sidewalks and upon publicly owned or leased facilities; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain conduct by a driver of a vehicle constitutes reckless driving. (NRS 484B.653) **Section 31** of this bill provides that a person who, while violating certain rules of the road relating to bicycles, pedestrians, crosswalks, school crossing guards, school zones or speeding, is the proximate cause of a collision with a pedestrian or person riding a bicycle has committed reckless driving.

Existing law prohibits the placement of a street banner bearing any commercial advertising upon any highway. (NRS 484B.313) Section 18.5 of this bill authorizes a county fair and recreation board, pursuant to a written agreement with a county or city, to place a street banner along any street, avenue, boulevard, alley, public highway or other public right-of-way used for vehicular traffic, along any sidewalk designed primarily for use by pedestrians and upon any facility owned or leased by the county or city if the street banner: (1) is used to welcome an event, convention or trade show which is sponsored or hosted by the county fair and recreation board and which is projected to be attended by more than 30,000 persons; and (2) does not express any other commercial or political message. Section 18.5 provides similar authorization for a veterans' organization if the street banner: (1) is used to welcome a group of veterans during a parade for veterans held on Veterans' Day or Memorial Day; and (2) does not express any other commercial or political message.

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. 12.3. NRS 483.460 is hereby amended to read as follows:

483.460 1. Except as otherwise provided by specific statute, the Department shall revoke the license, permit or privilege of any driver upon receiving a record of his or her conviction of any of the following offenses,

when that conviction has become final, and the driver is not eligible for a license, permit or privilege to drive for the period indicated:

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

(1) A violation of subsection ~~5~~ 6 of NRS 484B.653.

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

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

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

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

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

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

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

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

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

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

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

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

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

3. When the Department is notified by a court that a person who has been convicted of a first violation within 7 years of NRS 484C.110 has been permitted to enter a program of treatment pursuant to NRS 484C.320, the

Department shall reduce by one-half the period during which the person is not eligible for a license, permit or privilege to drive, but shall restore that reduction in time if notified that the person was not accepted for or failed to complete the treatment.

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

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

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

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

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

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

Sec. 12.5. NRS 483.490 is hereby amended to read as follows:

483.490 1. Except as otherwise provided in this section, after a driver's license has been suspended or revoked for an offense other than a second violation within 7 years of NRS 484C.110, and one-half of the period during which the driver is not eligible for a license has expired, the Department may, unless the statute authorizing the suspension prohibits the issuance of a restricted license, issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) To and from work or in the course of his or her work, or both; or

(b) To acquire supplies of medicine or food or receive regularly scheduled medical care for himself, herself or a member of his or her immediate family.

➤ Before a restricted license may be issued, the applicant must submit sufficient documentary evidence to satisfy the Department that a severe hardship exists because the applicant has no alternative means of transportation and that the severe hardship outweighs the risk to the public if the applicant is issued a restricted license.

2. A person who has been ordered to install a device in a motor vehicle pursuant to NRS 484C.460:

(a) Shall install the device not later than 21 days after the date on which the order was issued; and

(b) May not receive a restricted license pursuant to this section until:

(1) After at least 1 year of the period during which the person is not eligible for a license, if the person was convicted of:

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

(II) A violation of NRS 484C.110 that is punishable as a felony pursuant to NRS 484C.410 or 484C.420;

(2) After at least 180 days of the period during which the person is not eligible for a license, if the person was convicted of a violation of subsection ~~5~~ 6 of NRS 484B.653; or

(3) After at least 45 days of the period during which the person is not eligible for a license, if the person was convicted of a first violation within 7 years of NRS 484C.110.

3. If the Department has received a copy of an order requiring a person to install a device in a motor vehicle pursuant to NRS 484C.460, the Department shall not issue a restricted driver's license to such a person pursuant to this section unless the applicant has submitted proof of compliance with the order and subsection 2.

4. After a driver's license has been revoked or suspended pursuant to title 5 of NRS, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both; or

(b) If applicable, to and from school.

5. After a driver's license has been suspended pursuant to NRS 483.443, the Department may issue a restricted driver's license to an applicant permitting the applicant to drive a motor vehicle:

(a) If applicable, to and from work or in the course of his or her work, or both;

(b) To receive regularly scheduled medical care for himself, herself or a member of his or her immediate family; or

(c) If applicable, as necessary to exercise a court-ordered right to visit a child.

6. A driver who violates a condition of a restricted license issued pursuant to subsection 1 or by another jurisdiction is guilty of a misdemeanor and, if the license of the driver was suspended or revoked for:

(a) A violation of NRS 484C.110, 484C.210 or 484C.430;

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

(c) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a) or (b),

↳ the driver shall be punished in the manner provided pursuant to subsection 2 of NRS 483.560.

7. The periods of suspensions and revocations required pursuant to this chapter and NRS 484C.210 must run consecutively, except as otherwise provided in NRS 483.465 and 483.475, when the suspensions must run concurrently.

8. Whenever the Department suspends or revokes a license, the period of suspension, or of ineligibility for a license after the revocation, begins upon the effective date of the revocation or suspension as contained in the notice thereof.

Sec. 12.7. NRS 484B.270 is hereby amended to read as follows:

484B.270 1. The driver of a motor vehicle shall not:

(a) Intentionally interfere with the movement of a person lawfully riding a bicycle or an electric bicycle; or

(b) Overtake and pass a person riding a bicycle or an electric bicycle unless the driver can do so safely without endangering the person riding the bicycle or electric bicycle.

2. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle or an electric bicycle on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles or electric bicycles except:

(a) When entering or exiting an alley or driveway;

(b) When operating or parking a disabled vehicle;

(c) To avoid conflict with other traffic;

(d) In the performance of official duties;

(e) In compliance with the directions of a police officer; or

(f) In an emergency.

3. Except as otherwise provided in subsection 2, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles or electric bicycles.

4. The driver of a motor vehicle shall:

(a) Exercise due care to avoid a collision with a person riding a bicycle or an electric bicycle; and

(b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

5. *If, while violating any provision of subsections 1 to 4, inclusive, the driver of a motor vehicle is the proximate cause of a collision with a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

6. The operator of a bicycle or an electric bicycle shall not:

(a) Intentionally interfere with the movement of a motor vehicle; or

(b) Overtake and pass a motor vehicle unless the operator can do so safely without endangering himself or herself or the occupants of the motor vehicle.

Sec. 13. NRS 484B.280 is hereby amended to read as follows:

484B.280 1. A driver of a motor vehicle shall:

~~H-}~~ (a) Exercise due care to avoid a collision with a pedestrian;

~~{2-}~~ (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision; and

~~{3-}~~ (c) Exercise proper caution upon observing a pedestrian on or near a highway, street or road or in or near a school crossing zone marked in accordance with NRS 484B.363 or a marked or unmarked crosswalk.

2. *If, while violating any provision of this section, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 14. NRS 484B.283 is hereby amended to read as follows:

484B.283 **1.** Except as otherwise provided in NRS 484B.287, 484B.290 and 484B.350:

~~{1-}~~ (a) When official traffic-control devices are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the highway within a crosswalk when the pedestrian is upon the half of the highway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the highway as to be in danger.

~~{2-}~~ (b) A pedestrian shall not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

~~{3-}~~ (c) Whenever a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle until the driver has determined that the vehicle being overtaken was not stopped for the purpose of permitting a pedestrian to cross the highway.

~~{4-}~~ (d) Whenever signals exhibiting the words "Walk" or "Don't Walk" are in place, such signals indicate as follows:

~~{(a)}~~ (1) While the "Walk" indication is illuminated, pedestrians facing the signal may proceed across the highway in the direction of the signal and must be given the right-of-way by the drivers of all vehicles.

~~{(b)}~~ (2) While the "Don't Walk" indication is illuminated, either steady or flashing, a pedestrian shall not start to cross the highway in the direction of the signal, but any pedestrian who has partially completed the crossing during the "Walk" indication shall proceed to a sidewalk, or to a safety zone if one is provided.

~~{(c)}~~ (3) Whenever the word "Wait" still appears in a signal, the indication has the same meaning as assigned in this section to the "Don't Walk" indication.

~~{(d)}~~ (4) Whenever a signal system provides a signal phase for the stopping of all vehicular traffic and the exclusive movement of pedestrians, and "Walk" and "Don't Walk" indications control pedestrian movement, pedestrians may cross in any direction between corners of the intersection offering the shortest route within the boundaries of the intersection when the "Walk" indication is exhibited, and when signals and other official

traffic-control devices direct pedestrian movement in the manner provided in this section and in NRS 484B.307.

2. *If, while violating paragraph (a) or (c) of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 18.5. NRS 484B.313 is hereby amended to read as follows:

484B.313 1. ~~HH~~ **Except as otherwise provided in subsections 6 and 7,** *it* is unlawful for any person to place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any such device, sign or signal, and except as otherwise provided in subsection 4, a person shall not place or maintain nor may any public authority permit upon any highway any sign, signal, marking or street banner bearing thereon any commercial advertising except on benches and shelters for passengers of public mass transportation for which a franchise has been granted pursuant to NRS 244.187 and 244.188, 268.081 and 268.083, 269.128 and 269.129, or 277A.310 and 277A.330, or on monorail stations.

2. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the proper public authority may remove the same or cause it to be removed without notice.

3. This section does not prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official traffic-control devices.

4. A person may place and maintain commercial advertising in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110, and a public authority may permit commercial advertising that has been placed in an airspace above a highway under the conditions specified pursuant to subsection 3 of NRS 405.110.

5. If a franchisee receives revenues from commercial advertising authorized by subsection 1 and the franchisee is obligated to repay a bond issued by the State of Nevada, the franchisee shall use all revenue generated by the advertising authorized by subsection 1 to meet its obligations to the State of Nevada as set forth in the financing agreement and bond indenture, including, without limitation, the payment of operations and maintenance obligations, the funding of reserves and the payment of debt service. To the extent that any surplus revenue remains after the payment of all such obligations, the surplus revenue must be used solely to repay the bond until the bond is repaid.

6. *A county fair and recreation board, pursuant to a written agreement with a county or city, may place a street banner along any street, avenue, boulevard, alley, public highway or other public right-of-way used for vehicular traffic, along any sidewalk designed primarily for use by pedestrians and upon any facility owned or leased by the county or city if the street banner:*

(a) Is used to welcome an event, convention or trade show which is sponsored or hosted by the county fair and recreation board and which is projected to be attended by more than 30,000 persons; and

(b) Does not express any other commercial or political message.

7. *A veterans' organization, pursuant to a written agreement with a county or city, may place a street banner along any street, avenue, boulevard, alley, public highway or other public right-of-way used for vehicular traffic, along any sidewalk designed primarily for use by pedestrians and upon any facility owned or leased by the county or city if the street banner:*

(a) Is used to welcome a group of veterans during a parade for veterans held on Veterans' Day or Memorial Day; and

(b) Does not express any other commercial or political message.

8. As used in this section:

(a) "Monorail station" means:

(1) A structure for the loading and unloading of passengers from a monorail for which a franchise has been granted pursuant to NRS 705.695 or an agreement has been entered into pursuant to NRS 705.695; and

(2) Any facilities or appurtenances within such a structure.

(b) "Street banner" has the meaning ascribed to it in NRS 277A.130.

Sec. 19. NRS 484B.350 is hereby amended to read as follows:

484B.350 1. The driver of a vehicle:

(a) Shall stop in obedience to the direction or traffic-control signal of a school crossing guard; and

(b) Shall not proceed until the highway is clear of all persons, including, without limitation, the school crossing guard.

2. A person who violates ~~{any of the provisions of this section}~~ *subsection 1* is guilty of a misdemeanor.

3. *If, while violating subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.*

4. As used in this section, "school crossing guard" means a volunteer or paid employee of a local authority, local law enforcement agency or school district whose duties include assisting pupils to cross a highway.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 484B.363 is hereby amended to read as follows:

484B.363 1. A person shall not drive a motor vehicle at a speed in excess of 15 miles per hour in an area designated as a school zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

2. A person shall not drive a motor vehicle at a speed in excess of 25 miles per hour in an area designated as a school crossing zone except:

- (a) On a day on which school is not in session;
- (b) During the period from a half hour after school is no longer in operation to a half hour before school is next in operation;
- (c) If the zone is designated by an operational speed limit beacon, during the hours when the pupils of the school are in class and the yellow lights of the speed limit beacon are not flashing in the manner which indicates that the speed limit is in effect; or
- (d) If the zone is not designated by an operational speed limit beacon, during the times when the sign designating the school zone indicates that the speed limit is not in effect.

3. The governing body of a local government or the Department of Transportation shall designate school zones and school crossing zones. An area must not be designated as a school zone if imposing a speed limit of 15 miles per hour would be unsafe because of higher speed limits in adjoining areas.

4. Each such governing body and the Department shall provide signs to mark the beginning and end of each school zone and school crossing zone which it respectively designates. Each sign marking the beginning of such a zone must include a designation of the hours when the speed limit is in effect or that the speed limit is in effect when children are present.

5. With respect to each school zone and school crossing zone in a school district, the superintendent of the school district or his or her designee, in conjunction with the Department of Transportation and the governing body of the local government that designated the school zone or school crossing zone and after consulting with the principal of the school and the agency that is responsible for enforcing the speed limit in the zone, shall determine the times when the speed limit is in effect.

6. ***If, while violating subsection 1 or 2, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

7. As used in this section, "speed limit beacon" means a device which is used in conjunction with a sign and equipped with two or more yellow lights

that flash alternately to indicate when the speed limit in a school zone or school crossing zone is in effect.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. NRS 484B.600 is hereby amended to read as follows:

484B.600 1. It is unlawful for any person to drive or operate a vehicle of any kind or character at:

(a) A rate of speed greater than is reasonable or proper, having due regard for the traffic, surface and width of the highway, the weather and other highway conditions.

(b) Such a rate of speed as to endanger the life, limb or property of any person.

(c) A rate of speed greater than that posted by a public authority for the particular portion of highway being traversed.

(d) In any event, a rate of speed greater than 75 miles per hour.

2. ***If, while violating any provision of subsection 1, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the driver is subject to the additional penalty set forth in subsection 4 of NRS 484B.653.***

3. A person who violates any provision of ~~{this section}~~ ***subsection 1*** may be subject to the additional penalty set forth in NRS 484B.130.

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. NRS 484B.653 is hereby amended to read as follows:

484B.653 1. It is unlawful for a person to:

(a) Drive a vehicle in willful or wanton disregard of the safety of persons or property.

(b) Drive a vehicle in an unauthorized speed contest on a public highway.

(c) Organize an unauthorized speed contest on a public highway.

➤ A violation of paragraph (a) or (b) of this subsection or subsection 1 of NRS 484B.550 constitutes reckless driving.

2. ***If, while violating the provisions of subsections 1 to 4, inclusive, of NRS 484B.270, NRS 484B.280, paragraph (a) or (c) of subsection 1 of NRS 484B.283, NRS 484B.350, subsection 1 or 2 of NRS 484B.363 or subsection 1 of NRS 484B.600, the driver of a motor vehicle is the proximate cause of a collision with a pedestrian or a person riding a bicycle, the violation constitutes reckless driving.***

3. A person who violates paragraph (a) of subsection 1 is guilty of a misdemeanor and:

(a) For the first offense, shall be punished:

(1) By a fine of not less than \$250 but not more than \$1,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(b) For the second offense, shall be punished:

(1) By a fine of not less than \$1,000 but not more than \$1,500; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense, shall be punished:

(1) By a fine of not less than \$1,500 but not more than \$2,000; or

(2) By both fine and imprisonment in the county jail for not more than 6 months.

~~{3-}~~ **4.** A person who violates paragraph (b) or (c) of subsection 1 *or commits a violation which constitutes reckless driving pursuant to subsection 2* is guilty of a misdemeanor and:

(a) For the first offense:

(1) Shall be punished by a fine of not less than \$250 but not more than \$1,000;

(2) Shall perform not less than 50 hours, but not more than 99 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(b) For the second offense:

(1) Shall be punished by a fine of not less than \$1,000 but not more than \$1,500;

(2) Shall perform not less than 100 hours, but not more than 199 hours, of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

(c) For the third and each subsequent offense:

(1) Shall be punished by a fine of not less than \$1,500 but not more than \$2,000;

(2) Shall perform 200 hours of community service; and

(3) May be punished by imprisonment in the county jail for not more than 6 months.

~~{4-}~~ **5.** In addition to any fine, community service and imprisonment imposed upon a person pursuant to subsection ~~{3-}~~ **4**, the court:

(a) Shall issue an order suspending the driver's license of the person for a period of not less than 6 months but not more than 2 years and requiring the person to surrender all driver's licenses then held by the person;

(b) Within 5 days after issuing an order pursuant to paragraph (a), shall forward to the Department any licenses, together with a copy of the order;

(c) For the first offense, may issue an order impounding, for a period of 15 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense; and

(d) For the second and each subsequent offense, shall issue an order impounding, for a period of 30 days, any vehicle that is registered to the person who violates paragraph (b) or (c) of subsection 1 if the vehicle is used in the commission of the offense.

~~{5-}~~ **6.** Unless a greater penalty is provided pursuant to subsection 4 of NRS 484B.550, a person who does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle in willful or wanton disregard of the safety of persons or property, if the act or neglect of duty proximately causes the death of or substantial bodily harm to another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years and by a fine of not less than \$2,000 but not more than \$5,000.

~~{6-}~~ **7.** A person who violates any provision of this section may be subject to the additional penalty set forth in NRS 484B.130 unless the person is subject to the penalty provided pursuant to subsection 4 of NRS 484B.550.

~~{7-}~~ **8.** As used in this section, "organize" means to plan, schedule or promote, or assist in the planning, scheduling or promotion of, an unauthorized speed contest on a public highway, regardless of whether a fee is charged for attending the unauthorized speed contest.

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Senator Leslie moved the adoption of the amendment.

Remarks by Senators Leslie and Hardy.

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

SENATOR LESLIE:

This amendment authorizes county fair and recreation boards to put up a welcome banner if their event is projected to host more than 30,000 people. The amendment also allows for the same kind of non-advertising, welcoming banner for veterans groups when they have a parade on Veterans Day or on Memorial Day.

SENATOR HARDY:

Thank you, Mr. President. I read that the amendment says, "may", but does the town or county have to allow the banner to be placed, which may be problematic if they cannot find a sturdy enough pole to sustain winds.

SENATOR LESLIE:

It authorizes only. This has been going on for some time, but there was an issue that it was not spelled out in State law. They asked for this specific amendment. The counties and the fair and recreation boards have looked at the language.

SENATOR HARDY:

I ask because I come from a small town that had problems with banners being tied to poles. I do not see language in the amendment that states that the city does not have to do it if there is a problem with doing it.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Leslie moved that Assembly Bill No. 328 be taken from Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Wiener moved Assembly Bill No. 471 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

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

Senate in recess at 6:03 p.m.

SENATE IN SESSION

At 6:12 p.m.

President Krolicki presiding.

Quorum present.

Senator Wiener moved that the action whereby Senate Bill No. 207 was moved to next legislative day be rescinded.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 374.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 676.

"SUMMARY—Revises provisions governing the purchase of certain mobile equipment by the Department of Transportation. (BDR 35-852)"

"AN ACT relating to mobile equipment; requiring the Director of the Department of Transportation to submit a report to the Governor and the Legislature relating to the elimination by outsourcing or the purchase or leasing of certain mobile equipment; requiring the Department to prepare and present an analysis of the costs and benefits associated with the purchasing or leasing of certain mobile equipment or contracting for the performance of the work which would have been performed using that mobile equipment; prohibiting the Board of Directors of the Department from approving the purchase of certain mobile equipment unless the Department justifies the purchase based on the costs and benefits analysis; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Transportation to submit various reports to the Legislature concerning the activities of the Department. (NRS 408.203) **Section 2** of this bill provides that, on or before

February 1 of each odd-numbered year, the Director is required to submit a report to the Governor and the Legislature concerning all mobile equipment eliminated by outsourcing or purchased or leased in the previous 2 years. **Section 2** further requires that the report include, without limitation, the costs and benefits analysis prepared pursuant to **section 3** of this bill and the justification for the decision to purchase or lease the mobile equipment or to enter into a contract for the performance of the work which would have been performed using the mobile equipment.

Existing law requires the Board of Directors of the Department to authorize the purchase by the Department of any equipment which exceeds \$50,000. (NRS 408.389) **Section 3** provides that, before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department is required to: (1) prepare and present a costs and benefits analysis of purchasing or leasing the mobile equipment or contracting for the performance of the work which would have been performed using the mobile equipment; and (2) justify purchasing instead of leasing or contracting based on that analysis. **Section 3** further prohibits the Board from approving any purchase of mobile equipment which exceeds \$50,000 unless the Department is able to justify purchasing based on that analysis.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 408.203 is hereby amended to read as follows:

408.203 The Director shall:

1. Compile a comprehensive report outlining the requirements for the construction and maintenance of highways for the next 10 years, including anticipated revenues and expenditures of the Department, and submit it to the Director of the Legislative Counsel Bureau for transmittal to the Chairs of the Senate and Assembly Standing Committees on Transportation.

2. Compile a comprehensive report of the requirements for the construction and maintenance of highways for the next 3 years, including anticipated revenues and expenditures of the Department, no later than October 1 of each even-numbered year, and submit it to the Director of the Legislative Counsel Bureau for transmittal to the Chairs of the Senate and Assembly Standing Committees on Transportation.

3. Report to the Legislature by February 1 of odd-numbered years the progress being made in the Department's 12-year plan for the resurfacing of state highways. The report must include an accounting of revenues and expenditures in the preceding 2 fiscal years, a list of the projects which have been completed, including mileage and cost, and an estimate of the adequacy of projected revenues for timely completion of the plan.

4. *On or before February 1 of each odd-numbered year, 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 concerning all mobile equipment eliminated by outsourcing or purchased*

or leased by the Department in the preceding 2 fiscal years. The report must include, without limitation, an analysis of the costs and benefits of each purchase, lease or contract prepared pursuant to subsection 2 of NRS 408.389, the justification for the decision to purchase, lease or contract and any other information required by the Director relating to such purchase, lease or contract.

Sec. 3. NRS 408.389 is hereby amended to read as follows:

408.389 1. ~~{The}~~ *Except as otherwise provided in subsection 2, the Department shall not purchase any equipment which exceeds \$50,000, unless the purchase is first approved by the Board.*

2. *Before the Board may approve the purchase of any mobile equipment which exceeds \$50,000, the Department shall:*

(a) Prepare and present to the Board an analysis of the costs and benefits, including, without limitation, all related personnel costs, that are associated with:

(1) Purchasing, operating and maintaining the same item of equipment;

(2) Leasing, operating and maintaining the same item of mobile equipment; or

(3) Contracting for the performance of the work which would have been performed using the mobile equipment; and

(b) Justify the need for the purchase based on that analysis.

3. The Board shall not ~~{delegate}~~ :

(a) Delegate to the Director its authority to approve purchases of equipment pursuant to subsection 1 ~~{-}~~ ; or

(b) Approve any purchase of mobile equipment which exceeds \$50,000 and for which the Department is unable to provide justification pursuant to subsection 2.

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

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

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

Amendment No. 676 to Assembly Bill No. 374 adds Assemblyman Atkinson as a primary bill sponsor.

Motion carried on a division of the house.

Amendment adopted.

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

Assembly Bill No. 384.

Bill read second time and ordered to third reading.

Assembly Bill No. 433.

Bill read second time.

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

Amendment No. 690.

"SUMMARY—Expands prohibition on employers taking certain actions to prohibit, punish or prevent employees from engaging in politics or becoming candidates for public office with certain exceptions. (BDR 53-63)"

"AN ACT relating to employment practices; making it unlawful for public employers to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office with certain exceptions; prohibiting any employer from taking any adverse employment action against an employee because the employee has become a candidate for any public office with certain exceptions; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law makes it unlawful for a private employer to make rules or regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office. (NRS 613.040) A violation of that prohibition by an employer is punishable by a fine of not more than \$5,000. In addition, the costs of the proceeding to recover the fine are recoverable by the Attorney General. (NRS 613.050) The employee is also authorized to bring a separate lawsuit for damages for such a violation. (NRS 613.070) This bill makes it unlawful for public employers and labor organizations, in addition to private employers, to engage in such unlawful activity and also makes it unlawful for any public or private employer or labor organization to take any adverse employment action against an employee as a result of the employee becoming a candidate for public office. With respect to public employees, this bill makes an exception where necessary to meet requirements of federal law, such as the Hatch Act, 5 U.S.C. §§ 1501-1508, which imposes restrictions on certain political activities by state and local governmental employees.

WHEREAS, Every eligible person has a right to participate in the functions of government; and

WHEREAS, Participating as a candidate in an election for public office and participating in politics are at the core of government; and

WHEREAS, It is the policy of the State of Nevada to encourage participation in government; and

WHEREAS, Anything which tends to prevent a person from so participating is contrary to the policy of this State; now, therefore,

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

Section 1. NRS 613.040 is hereby amended to read as follows:

613.040 ~~¶¶~~

1. Except as necessary to meet requirements of federal law as it pertains to a particular public employee, it shall be unlawful for any person ~~[, firm or corporation doing business or employing labor in the State of Nevada to]~~ who employs or has under his or her direction and control any

person for wages or under a contract of hire and for any labor organization referring a person to an employer for employment:

(a) To make any rule or regulation prohibiting or preventing any employee from engaging in politics or becoming a candidate for any public office in this state.

(b) To take any adverse employment action against an employee who becomes a candidate for any public office in this State because the employee became a candidate for public office.

2. As used in this section:

(a) "Adverse employment action" ~~includes~~ :

(1) Includes, without limitation, requiring an employee to take an unpaid leave of absence during any period of his or her campaign for public office.

(2) Does not include, without limitation:

(I) Any disciplinary or other personnel action, including, without limitation, termination of employment, taken for reasons other than those prohibited pursuant to subsection 1; or

(II) Reassignment of an employee to prevent or eliminate any conflict of interest, as determined by the employer.

(b) "Candidate" has the meaning ascribed to it in NRS 294A.005.

(c) "Person" means:

(1) A natural person;

(2) Any form of business or social organization and any other nongovernmental legal entity, including, without limitation, a corporation, partnership, association, trust or agency or unincorporated organization; or

(3) A government, governmental agency or political subdivision of a government.

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. 433 relates to public employees who choose to run for public office. Amendment No. 690 defines the term "adverse employment action" to provide that it does not include any disciplinary action or other personnel action, including termination, taken for reasons other than those prohibited because the employee became a candidate for office, and reassignment of an employee to eliminate any potential conflict of interest.

Amendment adopted.

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

Assembly Bill No. 463.

Bill read second time and ordered to third reading.

Assembly Bill No. 508.

Bill read second time and ordered to third reading.

Assembly Bill No. 549.

Bill read second time.

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

Amendment No. 751.

"SUMMARY—Revises various provisions governing homeland security. (BDR 19-41)"

"AN ACT relating to homeland security; increasing the number of ~~lvoting~~ members on the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State; clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit; **making various changes concerning grants and other funding for homeland security;** providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Nevada Commission on Homeland Security, for which the Governor appoints the voting members and certain nonvoting members. The Commission has certain duties relating to the protection of residents of this State and visitors to this State from acts of terrorism and related emergencies. (NRS 239C.120, 239C.160) **Section 22** of this bill increases the number of voting members that the Governor must appoint to the Commission from 14 members to 16 members, to include a representative of the broadcaster community and a representative recommended by the Inter-Tribal Council of Nevada, Inc. **Section 22 also requires the appointment of the Chief of the Division of Emergency Management of the Department of Public Safety as a nonvoting member of the Commission.**

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 26** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. **Section 26** also clarifies that the documents, records and other items of information subject to an executive order of confidentiality for security purposes, **except vulnerability assessments,** may be inspected by and released to the Legislative Auditor when conducting a postaudit ~~it~~, **subject to certain requirements.**

Section 24.5 of this bill specifies the duties of the Commission with respect to grants and related funding and requires the Commission to submit annual briefings to the Governor assessing preparedness.

Sections 30.5 and 31.5 of this bill extend to tribal governments the applicability of provisions concerning grants of money to the State or a political subdivision for prevention of or response to terrorism or other similar incidents.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. Chapter 239C of NRS is hereby amended by adding thereto a new section to read as follows:

"Tribal government" means a federally recognized American Indian tribe pursuant to 25 C.F.R. §§ 83.1 to 83.13, inclusive.

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. 16.5. NRS 239C.020 is hereby amended to read as follows:

239C.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 239C.030 to 239C.110, inclusive, **and section 1.5 of this act** have the meanings ascribed to them in those sections.

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~14~~ **16** voting members that the Governor determines to be appropriate and who serve at the Governor's pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more . ~~1~~

(b) The chief of the county fire department in each county whose population is 100,000 or more . ~~1~~

(c) A member of the medical community in a county whose population is 400,000 or more . ~~}; and~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more.

(e) A representative of the broadcaster community. As used in this paragraph, "broadcaster" has the meaning ascribed to it in NRS 432.310.

(f) A representative recommended by the Inter-Tribal Council of Nevada, Inc., or its successor organization, to represent tribal ~~{nations}~~ governments in Nevada.

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; ~~and~~

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State. ~~}; and~~

(c) The Chief of the Division,

↪ as nonvoting members of the Commission.

4. The Senate Majority Leader shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. ~~{Except for the initial members, the}~~ **The** term of office of each member of the Commission who is a Legislator is 2 years . ~~{and commences on July 1 of the year of appointment.}~~

7. The Governor or his or her designee shall:

(a) Serve as Chair of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chair of the Commission.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 24.5. NRS 239C.160 is hereby amended to read as follows:

239C.160 The Commission shall, within the limits of available money:

1. Make recommendations to the Governor, the Legislature, agencies of this State, political subdivisions, tribal governments, businesses located within this State and private persons who reside in this State with respect to actions and measures that may be taken to protect residents of this State and visitors to this State from potential acts of terrorism and related emergencies.

2. **Make recommendations to the Governor, through the Division, on the use of money received by the State from any homeland security grant or related program, including, without limitation, the State Homeland Security Grant Program and Urban Area Security Initiative, in accordance with the following:**

(a) The Division shall provide the Commission with program guidance and briefings;

(b) The Commission must be provided briefings on existing and proposed projects, and shall consider statewide readiness capabilities and priorities for the use of money, administered by the Division, from any homeland security grant or related program;

(c) The Commission shall serve as the public body which reviews and makes recommendations for the State's applications to the Federal Government for homeland security grants or related programs, as administered by the Division; and

(d) The Commission shall serve as the public body which recommends, subject to approval by the Governor, the distribution of money from any homeland security grant or related program for use by state, local and tribal government agencies and private sector organizations.

3. Propose goals and programs that may be set and carried out, respectively, to counteract or prevent potential acts of terrorism and related emergencies before such acts of terrorism and related emergencies can harm or otherwise threaten residents of this State and visitors to this State.

~~3.1~~ 4. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this State and visitors to this State, including, without limitation, airports other than international airports, the Capitol Complex, dams, gaming establishments, governmental buildings, highways, hotels, information technology infrastructure, lakes, places of worship, power lines, public buildings, public utilities, reservoirs, rivers and their tributaries, and water facilities:

(a) Identify and categorize such buildings, facilities, geographic features and infrastructure according to their susceptibility to and need for protection from acts of terrorism and related emergencies; and

(b) Study and assess the security of such buildings, facilities, geographic features and infrastructure from acts of terrorism and related emergencies.

~~4.1~~ 5. Examine the use, deployment and coordination of response agencies within this State to ensure that those agencies are adequately prepared to protect residents of this State and visitors to this State from acts of terrorism and related emergencies.

~~5.1~~ 6. Assess, examine and review the use of information systems and systems of communication used by response agencies within this State to determine the degree to which such systems are compatible and interoperable. After conducting the assessment, examination and review, the Commission shall:

(a) Establish a state plan setting forth criteria and standards for the compatibility and interoperability of those systems when used by response agencies within this State; and

(b) Advise and make recommendations to the Governor relative to the compatibility and interoperability of those systems when used by response agencies within this State, with particular emphasis upon the compatibility and interoperability of public safety radio systems.

~~16.1~~ **7.** Assess, examine and review the operation and efficacy of telephone systems and related systems used to provide emergency 911 service.

~~17.1~~ **8.** To the extent practicable, cooperate and coordinate with the Division to avoid duplication of effort in developing policies and programs for preventing and responding to acts of terrorism and related emergencies.

~~18.1~~ **9.** *Submit an annual briefing to the Governor assessing the preparedness of the State to counteract, prevent and respond to potential acts of terrorism and related emergencies, including, but not limited to, an assessment of response plans and vulnerability assessments of utilities, public entities and private business in this State. The briefing must be based on information and documents reasonably available to the Commission and must be compiled with the advice of the Division after all utilities, public entities and private businesses assessed have a reasonable opportunity to review and comment on the Commission's findings.*

10. Perform any other acts related to their duties set forth in subsections 1 to ~~17.1~~ **9.**, inclusive, that the Commission determines are necessary to protect or enhance:

- (a) The safety and security of the State of Nevada;
- (b) The safety of residents of the State of Nevada; and
- (c) The safety of visitors to the State of Nevada.

Sec. 25. (Deleted by amendment.)

Sec. 26. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~public~~ :

(a) *Public* safety and public health personnel; and

(b) ~~The~~ *Except as otherwise provided in this subsection, the Legislative Auditor conducting a postaudit pursuant to NRS 218G.010 to 218G.555, inclusive,*

↪ if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare. *Any information that is inspected by or released to the Legislative Auditor pursuant to this subsection is not subject to the exception from confidentiality set forth in NRS 218G.130. The Legislative Auditor may confirm that vulnerability assessments have been submitted to or are in the possession of a state agency that is the subject of a postaudit, but the assessments must not be inspected by or released to the Legislative Auditor. An employee of the Audit Division of the Legislative Counsel Bureau who is conducting a postaudit that includes access to documents or information subject to the provisions of this section must be properly cleared through federal criteria*

or state or local background investigation and instructed, trained or certified, as applicable, regarding the security sensitivity of the documents or information.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

(g) Vulnerability assessments and emergency response plans of utilities, public entities and private businesses in this State. As used in this paragraph, "public entities" means departments, agencies or instrumentalities of the State, ~~for~~ any of its political subdivisions ~~or~~ or tribal governments. The term includes general improvement districts.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. ***The Governor shall review the documents, records and other items of information determined by executive order pursuant to subsection 1 to be confidential every 10 years to assess the continued need for the documents, records and other items of information to remain confidential.***

5. As used in this section, "public safety and public health personnel" includes:

(a) State, county, ~~and~~ city ***and tribal*** emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know *of* information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~[A]~~ *Except as otherwise provided in NRS 239C.210, a* person shall not disclose such information, except:

- (a) Upon the lawful order of a court of competent jurisdiction;
- (b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;
- (c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or
- (d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

- (a) A gross misdemeanor; or
- (b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 30. (Deleted by amendment.)

Sec. 30.5. NRS 239C.300 is hereby amended to read as follows:

239C.300 1. If the State, ~~for~~ a political subdivision or a tribal government submits an application to and is approved to receive money from the Federal Government, this State, any other state, a local government, any agency or instrumentality of those governmental entities, or any private entity, to pay for a project or program relating to the prevention of, detection of, mitigation of, preparedness for, response to and recovery from acts of terrorism, the State, ~~for~~ political subdivision or tribal government shall, not later than 60 days after receiving such approval, submit to the Commission a written report that includes, without limitation:

- (a) The total amount of money that the State, ~~for~~ political subdivision or tribal government has been approved to receive for the project or program;
- (b) A description of the project or program, unless the State, ~~for~~ political subdivision or tribal government previously submitted a written report pursuant to this section relating to the same project or program; and
- (c) The items to be paid for with the money that the State, ~~for~~ political subdivision or tribal government has been approved to receive for the project or program.

2. A project or program for which the State, ~~for~~ a political subdivision or a tribal government is required to report the receipt of money pursuant to subsection 1 includes, without limitation, a project or program related to:

- (a) Homeland security;
- (b) Emergency management;
- (c) Health or hospitals;
- (d) Emergency medical services; and

(e) Chemical, biological, radiological, nuclear, explosive, agricultural or environmental acts of terrorism.

~~{3. Any grant related to terrorism that is administered by the Division and is provided to a political subdivision must be approved by the local emergency planning committee.}~~

Sec. 31. (Deleted by amendment.)

Sec. 31.5. NRS 239C.310 is hereby amended to read as follows:

239C.310 1. The State and each political subdivision and tribal government shall:

(a) Adopt any national system that is required as a condition to the receipt of money from the Federal Government by the United States Department of Homeland Security pursuant to federal law in preparation for, prevention of, detection of, mitigation of, response to and recovery from a domestic incident, including, without limitation, an act of terrorism.

(b) Submit to the Division documentation evidencing that the State, ~~for~~ political subdivision or tribal government has adopted the national system.

2. The Division shall submit on a quarterly basis documentation to the Commission evidencing the compliance of this State and each political subdivision and tribal government with the provisions of paragraph (a) of subsection 1.

Sec. 32. (Deleted by amendment.)

Sec. 32.5. NRS 332.830 is hereby amended to read as follows:

332.830 1. On and after October 1, 2005, a governing body or its authorized representative shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~{5}~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by a local government from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~{5}~~ 6 of NRS 239C.160.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in NRS 239C.060.

(b) "Response agency" has the meaning ascribed to it in NRS 239C.080.

(c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

Sec. 33. (Deleted by amendment.)

Sec. 33.5. NRS 333.820 is hereby amended to read as follows:

333.820 1. On and after October 1, 2005, the Chief, the Purchasing Division or a using agency shall not purchase an information system or system of communication for use by a response agency unless the system complies with the plan established pursuant to subsection ~~{5}~~ 6 of NRS 239C.160.

2. On and after October 1, 2005, any grant or other money received by the Chief, the Purchasing Division or a using agency from the Federal Government for the purchase of an information system or system of communication for use by a response agency must not be used to purchase such a system unless the system complies with the plan established pursuant to subsection ~~45~~ 6 of NRS 239C.160.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in NRS 239C.060.

(b) "Response agency" has the meaning ascribed to it in NRS 239C.080.

(c) "System of communication" has the meaning ascribed to it in NRS 239C.100.

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 37. (Deleted by amendment.)

Sec. 38. (Deleted by amendment.)

Sec. 39. (Deleted by amendment.)

Senator Settlemeyer moved the adoption of the amendment.

Remarks by Senator Settlemeyer.

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

Amendment No. 751 to Assembly Bill No. 549 adds a new section to set forth a definition of "tribal government" and adds "tribal government" throughout the bill relating to homeland security reports, vulnerability assessments, and the adoption of certain homeland security measures.

It requires the Commission on Homeland Security to make recommendations to the Governor, the Legislature and other political subdivisions with respect to actions and measures that may be taken to protect State residents and visitors.

It requires the Commission to make recommendations to the Governor, through the Division of Emergency Management, on the use of State Homeland Security Grant Programs and Urban Area Security Initiative funding received by the State of Nevada.

It requires the Commission to submit an annual briefing to the Governor assessing the preparedness of the State to counteract, prevent, and respond to potential acts of terrorism and related emergencies.

It adds the Chief of the Division of Emergency Management to the list of non-voting members appointed by the Governor to the Commission.

It provides that the Legislative Auditor, during the course of a postaudit, may only confirm the possession of a vulnerability assessment by a State agency. Any employee of the Audit Division who is conducting an audit that includes access to such vulnerability assessments must be properly cleared through federal criteria or through a State or local background check and it provides that documents, records, or other items of information determined to be confidential by executive order shall be reviewed by the Governor every ten years to assess their continued need to remain confidential.

Amendment adopted.

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

Assembly Joint Resolution No. 5.

Resolution read second time.

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

Amendment No. 713.

"SUMMARY—Urges the Federal Government to engage in discussions regarding the mitigation and containment of water contamination in Nevada which resulted from certain nuclear activities that were conducted in this State by the Federal Government. (BDR R-895)"

ASSEMBLY JOINT RESOLUTION—Urging the Federal Government to engage in discussions with the State of Nevada and Clark and Nye Counties, Nevada, regarding the mitigation and containment of water contamination in Nevada which resulted from certain nuclear testing and storage activities that were conducted by the Federal Government in Nye County, Nevada.

WHEREAS, The Federal Government has conducted numerous public, secret and classified activities and military exercises in Nevada that have resulted in the contamination of the water supply in this State with radioactive material and other hazardous contaminants; and

WHEREAS, The Nevada National Security Site, formerly the Nevada Test Site, which is located in Nye County, Nevada, approximately 40 miles north of Pahrump, Nevada, and 65 miles northwest of Las Vegas, Nevada, was established by the Federal Government in 1950 for the purposes of detonating nuclear devices and conducting other public, secret and classified nuclear tests in connection with the research and development of nuclear weapons for use by the Armed Forces of the United States; and

WHEREAS, From 1951 until 1992, the Federal Government conducted 100 atmospheric nuclear tests and 828 underground nuclear tests at the Nevada National Security Site, which resulted in the detonation of 1,021 nuclear devices; and

WHEREAS, Approximately one-third of the underground nuclear tests at the Nevada National Security Site were conducted directly in aquifers, and many other underground tests were conducted above and below the water table; and

WHEREAS, Radioactive particles have migrated via water from the Paiute Mesa area of the Nevada National Security Site toward Beatty, Nevada; and

WHEREAS, The United States Department of Energy has estimated that nuclear testing at the Nevada National Security Site left behind more than 300 million curies of radionuclides, making the Site one of the most radioactively contaminated places in the United States; and

WHEREAS, Since 1961, Area 5 and Area 3 within the Nevada National Security Site have been primary storage and disposal sites of the Federal Government for low-level and mixed low-level radioactive waste; and

WHEREAS, A study conducted on behalf of Nye County concluded that nuclear testing at the Nevada National Security Site has polluted approximately 1.6 trillion gallons of water in this State; and

WHEREAS, The aforementioned activities of the Federal Government in Nevada have had a deleterious effect on the environment of this State and have resulted in the contamination of the interconnected surface and subsurface waters, groundwater and aquifers of a large geographic area of Nevada with radioactive and other contaminants; now, therefore, be it

RESOLVED BY THE ASSEMBLY AND SENATE OF THE STATE OF NEVADA, JOINTLY, That the members of the 76th Session of the Nevada Legislature respectfully urge the Federal Government to engage in discussions with the State of Nevada and Clark and Nye ~~{County,}~~ Counties, Nevada, regarding:

1. The mitigation and containment of water contamination in Nevada which resulted from nuclear testing and storage activities that were conducted by the Federal Government at the Nevada National Security Site; and

2. The restoration of any water contaminated because of those activities; and be it further

RESOLVED, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Secretary of Defense, the Secretary of Energy, the Chairman of the Joint Chiefs of Staff, the Administrator of the Environmental Protection Agency and each member of the Nevada Congressional Delegation; and be it further

RESOLVED, That this resolution becomes effective upon passage.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

This amendment adds Clark County to the list of entities with which the federal government is urged to engage in discussions concerning the mitigation and containment of water contamination that resulted from nuclear testing and storage activities at the Nevada National Security Site.

Amendment adopted.

Resolution ordered reprinted, re-engrossed and to the General File.

Assembly Joint Resolution 6.

Resolution read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 54.

Bill read third time.

Remarks by Senator Horsford.

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

Under existing law, each nursing facility that is licensed in the State is required to pay a fee to the Division of Health Care Financing and Policy. The fees are used to increase rates paid to skilled nursing facilities providing services to Medicaid recipients. Existing law prohibits the money in the Fund from being used to replace existing General Fund appropriations paid to skilled nursing facilities.

Senate Bill No. 54, as amended, eliminates the limitation currently in statute that does not allow funds paid to the Fund to Increase Quality of Nursing Care to replace General Fund

appropriations. Additionally, Senate Bill No. 54 allows rate changes to be determined by the Division of Health Care Financing and Policy, in the event federal law or regulation prohibits the money in the Fund from being used in the manner specified in statute.

The Division of Health Care Financing and Policy indicates that this legislation may decrease the risk of litigation from the long-term care industry, resulting from rate reductions approved for the 2011-13 biennium.

This act becomes effective upon passage and approval and expires by limitation on July 1, 2013.

This is a budget implementation bill. The rate for nursing homes as approved in the budget currently will be reduced by \$5 per day per bed. This goes against a longstanding agreement with this industry whereby they had a self imposed tax on the industry to cover the quality of care in the nursing home for individuals who reside in skilled nursing facilities. I urge the body to approve this bill.

Roll call on Senate Bill No. 54:

YEAS—21.

NAYS—None.

Senate Bill No. 54 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 207.

Bill read third time.

Roll call on Senate Bill No. 207:

YEAS—11.

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

Senate Bill No. 207 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 208.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 770.

"SUMMARY—Creates the Task Force on Employee Misclassification. (BDR 53-164)"

"AN ACT relating to employee misclassification; requiring certain state agencies to share information relating to suspected employee misclassification under certain circumstances; creating the Task Force on Employee Misclassification; providing its duties; making various other changes relating to employee misclassification; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 7 of this bill requires the offices of the Labor Commissioner, the Division of Industrial Relations of the Department of Business and Industry, the Employment Security Division of the Department of Employment, Training and Rehabilitation, the Department of Taxation and the Attorney General to share amongst their respective offices information relating to

suspected employee misclassification that is received in the performance of their official duties under certain circumstances. **Section 4** of this bill defines "employee misclassification" as the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.

Section 8 of this bill creates and sets forth the membership of the Task Force on Employee Misclassification. **Section 9** of this bill sets forth the duties of the Task Force.

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

Section 1. Chapter 607 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. *"Employee" means a person who performs services for wages for an employer. The term does not include an independent contractor.*

Sec. 4. *"Employee misclassification" means the practice by an employer of improperly classifying employees as independent contractors to avoid any legal obligation under state labor, employment and tax laws, including, without limitation, the laws governing minimum wage, overtime, unemployment insurance, workers' compensation insurance, temporary disability insurance, wage payment and payroll taxes.*

Sec. 5. *"Employer" includes, without limitation:*

- 1. The State of Nevada, any state agency, or any county, city, town, school district or other unit of local government;*
- 2. Any public or quasi-public corporation; and*
- 3. Any person, firm, corporation, partnership or association.*

Sec. 6. *"Independent contractor" ~~fmeans a person who performs services for an employer if:~~*

~~— 1. 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;~~

~~— 2. The services are outside the usual course of the employer's business or the services are performed outside of all the places of business of the employer for which the services are performed; and~~

~~— 3. The services are 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. 7. *The offices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment*

Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General:

1. *Shall communicate between their respective offices information relating to suspected employee misclassification which is received in the performance of their official duties and which is not otherwise declared by law to be confidential.*

2. *May communicate between their respective offices information relating to employee misclassification which is received in the performance of their official duties and which is otherwise declared by law to be confidential, if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.*

Sec. 8. 1. *The Task Force on Employee Misclassification, consisting of 10 members, is hereby created.*

2. *The following persons shall serve as ex officio members of the Task Force:*

(a) *The Labor Commissioner or the Labor Commissioner's designee.*

(b) *The Administrator of the Division of Industrial Relations of the Department of Business and Industry or the Administrator's designee.*

(c) *The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation or the Administrator's designee.*

(d) *The Executive Director of the Department of Taxation or the Executive Director's designee.*

(e) *The Attorney General or the Attorney General's designee.*

3. *The following persons shall serve as appointed members of the Task Force:*

(a) *One person who represents an employer located in this State that employs more than 500 full-time or part-time employees.*

(b) *One person who represents an employer located in this State that employs 500 or fewer full-time or part-time employees.*

(c) *One person who is an independent contractor in this State.*

(d) *One person who represents organized labor in this State.*

(e) *One person who represents the general public in this State.*

4. *The members of the Task Force described in subsection 3:*

(a) *Must be appointed by the Legislative Commission from recommendations submitted to the Legislative Commission by the Governor, the Majority Leader of the Senate and the Speaker of the Assembly.*

(b) *After the initial terms, serve a term of 2 years and until their respective successors are appointed. A member may be reappointed in the same manner as the original appointments.*

5. *Any vacancy occurring in the appointed membership of the Task Force must be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.*

6. *The Task Force shall meet at least twice each fiscal year and may meet at such additional times as deemed necessary by the Chair.*

7. *At the first meeting of each fiscal year, the Task Force shall elect from its members a Chair and a Vice Chair.*

8. *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.*

9. *The Task Force shall comply with the provisions of chapter 241 of NRS, and all meetings of the Task Force must be conducted in accordance with that chapter.*

10. *Members of the Task Force serve without compensation.*

11. *The Legislative Counsel Bureau shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out its duties.*

Sec. 9. *The Task Force on Employee Misclassification shall:*

1. *Evaluate the policies and practices of the Labor Commissioner, Division of Industrial Relations of the Department of Business and Industry, Employment Security Division of the Department of Employment, Training and Rehabilitation, Department of Taxation and Attorney General relating to employee misclassification.*

2. *Evaluate any existing fines, penalties or other disciplinary action relating to employee misclassification that are authorized to be imposed by a state agency.*

3. *Develop recommendations for policies, practices or proposed legislation to reduce the occurrence of employee misclassification.*

4. *On or before July 1, 2012, and on or before July 1 of each subsequent year submit a written report to the Director of the Legislative Counsel Bureau for submission to the Legislative Commission. The report must include, without limitation, a summary of the work of the Task Force and recommendations for legislation concerning employee misclassification.*

Sec. 10. 1. *The Task Force on Employee Misclassification may create a subcommittee to the Task Force for any purpose that is consistent with sections 2 to 10, inclusive, of this act.*

2. *The Task Force shall appoint the members of the subcommittee and designate one of the members of the subcommittee as chair of the subcommittee. The chair of the subcommittee must be a member of the Task Force.*

3. *The subcommittee shall meet at the times and places specified by a call of the chair of the subcommittee. A majority of the members of the subcommittee constitutes a quorum, and a quorum may exercise any power or authority conferred on the subcommittee.*

Sec. 11. NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115, ***and section 7 of this act***, information obtained from any

employing unit or person pursuant to the administration of this chapter and any determination as to the benefit rights of any person is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's or employing unit's identity.

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may be made available to:

(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

➤ Information obtained in connection with the administration of the *State* Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by 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 Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is

able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

6. Upon request therefor, the Administrator shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation and employment status of each recipient of benefits and the recipient's rights to further benefits pursuant to this chapter.

7. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator furnish, from the records of the Division, the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

8. In addition to the provisions of subsection 5, the Administrator shall provide lists containing the names and addresses of employers, and information regarding the wages paid by each employer to the Department of Taxation, upon request, for use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the preceding month and request that the Administrator compare the information so provided with the records of the Division regarding persons claiming benefits pursuant to chapter 612 of NRS for the same period. The information submitted by the private carrier must be in a form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under chapter 612 of NRS and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or

any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

10. The Administrator may request the Comptroller of the Currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered pursuant to the provisions of this chapter, and may in connection with the request transmit any such report or return to the Comptroller of the Currency of the United States as provided in section 3305(c) of the Internal Revenue Code of 1954.

11. If any employee or member of the Board of Review, the Administrator or any employee of the Administrator, in violation of the provisions of this section, discloses information obtained from any employing unit or person in the administration of this chapter, or if any person who has obtained a list of applicants for work, or of claimants or recipients of benefits pursuant to this chapter uses or permits the use of the list for any political purpose, he or she is guilty of a gross misdemeanor.

12. All letters, reports or communications of any kind, oral or written, from the employer or employee to each other or to the Division or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared pursuant to the requirements of this chapter.

Sec. 12. NRS 616B.012 is hereby amended to read as follows:

616B.012 1. Except as otherwise provided in this section and NRS 239.0115, 616B.015, 616B.021 and 616C.205, ***and section 7 of this act***, information obtained from any insurer, employer or employee is confidential and may not be disclosed or be open to public inspection in any manner which would reveal the person's identity.

2. Any claimant or legal representative of the claimant is entitled to information from the records of the insurer, to the extent necessary for the proper presentation of a claim in any proceeding under chapters 616A to 616D, inclusive, or chapter 617 of NRS.

3. The Division and Administrator are entitled to information from the records of the insurer which is necessary for the performance of their duties. The Administrator may, by regulation, prescribe the manner in which otherwise confidential information may be made available to:

(a) Any agency of this or any other state charged with the administration or enforcement of laws relating to industrial insurance, unemployment compensation, public assistance or labor law and industrial relations;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

↪ Information obtained in connection with the administration of a program of industrial insurance may be made available to persons or agencies for purposes appropriate to the operation of a program of industrial insurance.

4. Upon written request made by a public officer of a local government, an insurer shall furnish from its records the name, address and place of employment of any person listed in its records. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by 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 the local government. The insurer may charge a reasonable fee for the cost of providing the requested information.

5. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit to the Administrator a written request for the name, address and place of employment of any person listed in the records of an insurer. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of a request, the Administrator shall instruct the insurer to furnish the information requested. Upon receipt of such an instruction, the insurer shall furnish the information requested. The insurer may charge a reasonable fee to cover any related administrative expenses.

6. Upon request by the Department of Taxation, the Administrator shall provide:

(a) Lists containing the names and addresses of employers; and

(b) Other information concerning employers collected and maintained by the Administrator or the Division to carry out the purposes of chapters 616A to 616D, inclusive, or chapter 617 of NRS,

↪ to the Department for its use in verifying returns for the taxes imposed pursuant to chapters 363A and 363B of NRS. The Administrator may charge a reasonable fee to cover any related administrative expenses.

7. Any person who, in violation of this section, discloses information obtained from files of claimants or policyholders or obtains a list of claimants or policyholders under chapters 616A to 616D, inclusive, or chapter 617 of NRS and uses or permits the use of the list for any political purposes, is guilty of a gross misdemeanor.

8. All letters, reports or communications of any kind, oral or written, from the insurer, or any of its agents, representatives or employees are privileged and must not be the subject matter or basis for any lawsuit if the letter, report or communication is written, sent, delivered or prepared

pursuant to the requirements of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

9. The provisions of this section do not prohibit the Administrator or the Division from disclosing any nonproprietary information relating to an uninsured employer or proof of industrial insurance.

Sec. 13. NRS 616B.015 is hereby amended to read as follows:

616B.015 1. Except as otherwise provided in subsection 2 and NRS 239.0115, *and section 7 of this act*, the records and files of the Division concerning self-insured employers and associations of self-insured public or private employers are confidential and may be revealed in whole or in part only in the course of the administration of the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS relating to those employers or upon the lawful order of a court of competent jurisdiction.

2. The records and files specified in subsection 1 are not confidential in the following cases:

(a) Testimony by an officer or agent of the Division and the production of records and files on behalf of the Division in any action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS if that testimony or the records and files, or the facts shown thereby, are involved in the action or proceeding.

(b) Delivery to a self-insured employer or an association of self-insured public or private employers of a copy of any document filed by the employer with the Division pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS.

(c) Publication of statistics if classified so as to prevent:

(1) Identification of a particular employer or document; or

(2) Disclosure of the financial or business condition of a particular employer or insurer.

(d) Disclosure in confidence, without further distribution or disclosure to any other person, to:

(1) The Governor or an agent of the Governor in the exercise of the Governor's general supervisory powers;

(2) Any person authorized to audit the accounts of the Division in pursuance of an audit;

(3) The Attorney General or other legal representative of the State in connection with an action or proceeding conducted pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;

(4) Any agency of this or any other state charged with the administration or enforcement of the laws relating to workers' compensation or unemployment compensation; or

(5) Any federal, state or local law enforcement agency.

(e) Disclosure in confidence by a person who receives information pursuant to paragraph (d) to a person in furtherance of the administration or enforcement of the laws relating to workers' compensation or unemployment compensation.

3. As used in this section:

(a) "Division" means the Division of Insurance of the Department of Business and Industry.

(b) "Records and files" means:

(1) All credit reports, references, investigative records, financial information and data pertaining to the net worth of a self-insured employer or association of self-insured public or private employers; and

(2) All information and data required by the Division to be furnished to it pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS or which may be otherwise obtained relative to the finances, earnings, revenue, trade secrets or the financial condition of any self-insured employer or association of self-insured public or private employers.

Sec. 14. NRS 360.795 is hereby amended to read as follows:

360.795 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, *and section 7 of this act*, the records and files of the Department concerning the administration of NRS 360.760 to 360.796, inclusive, are confidential and privileged. The Department, and any employee of the Department engaged in the administration of NRS 360.760 to 360.796, inclusive, or charged with the custody of any such records or files, shall not disclose any information obtained from those records or files. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of NRS 360.760 to 360.796, inclusive, are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to NRS 360.760 to 360.796, inclusive.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or

enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to subsection 3.

(g) Disclosure of information concerning whether or not a person conducting a business in this State has a state business license.

3. 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.

4. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

Sec. 15. NRS 363A.110 is hereby amended to read as follows:

363A.110 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, *and section 7 of this act*, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his or her authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any

agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

3. The 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.

Sec. 16. NRS 363B.100 is hereby amended to read as follows:

363B.100 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, *and section 7 of this act*, the records and files of the Department concerning the administration of this chapter are confidential and privileged. The Department, and any employee engaged in the administration of this chapter or charged with the custody of any such records or files, shall not disclose any information obtained from the Department's records or files or from any examination, investigation or hearing authorized by the provisions of this chapter. Neither the Department nor any employee of the Department may be required to produce any of the records, files and information for the inspection of any person or for use in any action or proceeding.

2. The records and files of the Department concerning the administration of this chapter are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a taxpayer in any action or proceeding pursuant to the provisions of this chapter if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a taxpayer or his or her authorized representative of a copy of any return or other document filed by the taxpayer pursuant to this chapter.

(c) Publication of statistics so classified as to prevent the identification of a particular person or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases.

(e) Disclosure in confidence to the Governor or his or her agent in the exercise of the Governor's general supervisory powers, or to any person authorized to audit the accounts of the Department in pursuance of an audit, or to the Attorney General or other legal representative of the State in connection with an action or proceeding pursuant to this chapter, or to any agency of this or any other state charged with the administration or enforcement of laws relating to taxation.

(f) Exchanges of information pursuant to subsection 3.

3. The 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.

Sec. 17. 1. As soon as practicable after passage and approval of this act, the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall solicit applications and make recommendations to the

Legislative Commission for the appointment of members to the Task Force on Employee Misclassification who are described in subsection 3 of section 8 of this act.

2. As soon as practicable after July 1, 2011, the Legislative Commission shall, after considering each recommendation received pursuant to subsection 1, appoint the members of the Task Force on Employee Misclassification described in subsection 3 of section 8 of this act.

3. The terms of the members of the Task Force on Employee Misclassification appointed pursuant to subsection 2 expire on June 30, 2013.

Sec. 18. 1. This section and section 17 of this act become effective upon passage and approval.

2. Sections 1 to 16, inclusive, of this act become effective on July 1, 2011.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 770 to Senate Bill No. 208 deletes the definition of the term "independent contractor" used in the bill and instead substitutes the existing definition of the term in *Nevada Revised Statutes* 616A.255.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 208 be taken from its place the General File and placed on the bottom of Senate Bills on this agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 429.

Bill read third time.

Roll call on Senate Bill No. 429:

YEAS—21.

NAYS—None.

Senate Bill No. 429 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 208.

Bill read third time.

Remarks by Senators McGinness and Schneider.

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

SENATOR MCGINNESS:

Thank you, Mr. President. I would like an explanation of this bill and why it has been expedited by having it reprinted in advance of the amendment. The bill has been out since March 1.

SENATOR SCHNEIDER:

This bill was referred to the Committee on Finance where it was amended. We changed the term of the employee definition.

Senate Bill No. 208 requires the offices of the Labor Commissioner, the Division of Industrial Relations, the Employment Security Division, the Department of Taxation, and the Attorney General to share amongst their respective offices information relating to suspected employee misclassification to the extent that confidentiality required by law is maintained.

The bill also establishes the ten-member Task Force on Employee Misclassification. Five members are ex officio members from specified State entities. The remaining five members are appointees selected as representatives for certain employer and labor interests, as well as a representative of the general public. The Task Force shall evaluate the policies and practices of specified State agencies relating to misclassification in the areas of labor law, workers' compensation, unemployment insurance, rehabilitation, taxation, and law enforcement; evaluate existing fines, penalties, or other disciplinary action State agencies can take relating to misclassification; and develop recommendations for policies, practices, or proposed legislation to reduce the occurrence of employee misclassification.

The Task Force shall submit a written report to the Legislative Commission on or before July 1, 2012, and on or before July 1 of each subsequent year. The report must contain a summary of its work and recommendations for legislation addressing employee misclassification.

This bill is effective upon passage and approval for the purpose of appointment of Task Force members, and on July 1, 2011, for all other purposes.

Roll call on Senate Bill No. 208:

YEAS—11.

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

Senate Bill No. 208 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. 199, 240, 265, 273, 301, 360, 376, 413, 504, be taken from the General File and placed on the General File on the next agenda.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 128

The following Assembly amendment was read:

Amendment No. 660.

"SUMMARY—Revises provisions governing guardianships. (BDR 13-156)"

"AN ACT relating to guardianships; revising provisions governing the appointment, powers and duties of guardians; requiring certain guardians to undergo a background investigation at their own cost and expense; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the appointment, powers and duties of guardians. (Chapter 159 of NRS) **Section 7** of this bill requires a private professional

guardian to undergo a background investigation at his or her own cost and expense and to present the results of the background investigation to the court upon request. **Section 8** of this bill requires every guardian to file a verified acknowledgment of the duties and responsibilities of a guardian before performing any duties as a guardian. The acknowledgment must set forth certain provisions, including certain specific duties of the guardian. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and may instead require the guardian to file a general acknowledgment which covers all guardianships to which the guardian may be appointed. **Section 13** of this bill prohibits the removal of a guardian by the court if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

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. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a certified guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a certified guardian involved in the day-to-day operation or management of the entity.

3. *A private professional guardian shall, at his or her own cost and expense:*

(a) Undergo a background investigation which requires the submission of a complete set of his or her fingerprints to the Central Repository for Nevada Records of Criminal History ~~for submission~~ and to the Federal Bureau of Investigation for ~~its report~~ their respective reports; and

(b) Present the results of the background investigation to the court upon request.

4. As used in this section:

(a) "Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

(c) "Person" means a natural person.

Sec. 8. NRS 159.073 is hereby amended to read as follows:

159.073 1. Every guardian, ~~{shall,}~~ before entering upon his or her duties as guardian and before letters of guardianship may issue ~~;~~

~~—1,;~~ *shall:*

(a) Take and subscribe the official oath which must:

~~{(a)}~~ (1) Be endorsed on the letters of guardianship; and

~~{(b)}~~ (2) State that the guardian will well and faithfully perform the duties of guardian according to law.

~~{2-}~~ (b) File in the proceeding the appropriate documents which include, without limitation, the full legal name of the guardian and the residence and post office addresses of the guardian.

(c) *Except as otherwise required in subsection 2, make and file in the proceeding a verified acknowledgment of the duties and responsibilities of a guardian. The acknowledgement must set forth:*

(1) A summary of the duties, functions and responsibilities of a guardian, including, without limitation, the duty to:

(I) Act in the best interest of the ward at all times.

(II) Provide the ward with medical, surgical, dental, psychiatric, psychological, hygienic or other care and treatment as needed, with adequate food and clothing and with safe and appropriate housing.

(III) Protect, preserve and manage the income, assets and estate of the ward and utilize the income, assets and estate of the ward solely for the benefit of the ward.

(IV) Maintain the assets of the ward in the name of the ward or the name of the guardianship. Except when the spouse of the ward is also his or her guardian, the assets of the ward must not be commingled with the assets of any third party.

(2) A summary of the statutes, regulations, rules and standards governing the duties of a guardian.

(3) A list of actions regarding the ward that require the prior approval of the court.

(4) A statement of the need for accurate recordkeeping and the filing of annual reports with the court regarding the finances and well-being of the ward.

2. The court may exempt a public guardian or private professional guardian from filing an acknowledgment in each case and, in lieu thereof, require the public guardian or private professional guardian to file a general acknowledgment covering all guardianships to which the guardian may be appointed by the court.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 159.183 is hereby amended to read as follows:

159.183 1. Subject to the discretion and approval of the court and except as otherwise provided in subsection 4, a guardian must be allowed:

(a) Reasonable compensation for the guardian's services;

(b) Necessary and reasonable expenses incurred in exercising the authority and performing the duties of a guardian; and

(c) Reasonable expenses incurred in retaining accountants, attorneys, appraisers or other professional services.

2. Reasonable compensation and services must be based upon similar services performed for persons who are not under a legal disability. In determining whether compensation is reasonable, the court may consider:

- (a) The nature of the guardianship;
- (b) The type, duration and complexity of the services required; and
- (c) Any other relevant factors.

3. In the absence of an order of the court pursuant to this chapter shifting the responsibility of the payment of compensation and expenses, the payment of compensation and expenses must be paid from the estate of the ward. In evaluating the ability of a ward to pay such compensation and expenses, the court may consider:

- (a) The nature, extent and liquidity of the ward's assets;
- (b) The disposable net income of the ward;
- (c) Any foreseeable expenses; and
- (d) Any other factors that are relevant to the duties of the guardian pursuant to NRS 159.079 or 159.083.

4. A private professional guardian is not allowed compensation or expenses for services incurred by the private professional guardian as a result of a petition to have him or her removed as guardian if the court removes the private professional guardian pursuant to the provisions of *paragraph (b), (d), (e), (f) or (h) of subsection [2, 4, 5, 6 or 8] 1 of NRS 159.185.*

Sec. 13. NRS 159.185 is hereby amended to read as follows:

159.185 **1.** The court may remove a guardian if the court determines that:

~~{1-}~~ **(a)** The guardian has become mentally incompetent, unsuitable or otherwise incapable of exercising the authority and performing the duties of a guardian as provided by law;

~~{2-}~~ **(b)** The guardian is no longer qualified to act as a guardian pursuant to NRS 159.059;

~~{3-}~~ **(c)** The guardian has filed for bankruptcy within the previous 5 years;

~~{4-}~~ **(d)** The guardian of the estate has mismanaged the estate of the ward;

~~{5-}~~ **(e)** The guardian has negligently failed to perform any duty as provided by law or by any order of the court and:

~~{(a)}~~ **(1)** The negligence resulted in injury to the ward or the estate of the ward; or

~~{(b)}~~ **(2)** There was a substantial likelihood that the negligence would result in injury to the ward or the estate of the ward;

~~{6-}~~ **(f)** The guardian has intentionally failed to perform any duty as provided by law or by any lawful order of the court, regardless of injury;

~~{7-}~~ **(g)** The best interests of the ward will be served by the appointment of another person as guardian; or

~~{8-}~~ **(h)** The guardian is a private professional guardian who is no longer qualified as a private professional guardian pursuant to NRS 159.0595.

2. A guardian may not be removed if the sole reason for removal is the lack of money to pay the compensation and expenses of the guardian.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 128.

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

Amendment No. 660 requires a private professional guardian to submit a set of fingerprints to both the Central Repository for Nevada Records of Criminal History and the FBI, rather than submitting them to the Central Repository for submission to the FBI.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 221.

The following Assembly amendment was read:

Amendment No. 743

"SUMMARY—Makes various changes relating to trusts, estates and probate. (BDR 2-78)"

"AN ACT relating to personal financial administration; providing for nonprobate transfers of property to take effect on the death of the owner of the property; establishing provisions relating to transfers of property which are found or presumed to be void and providing the effect of such transfers; providing for the independent administration of estates; revising provisions concerning the administration of trusts and estates; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1-3 of this bill provide for the exemption of certain trust property, interests or powers from execution and attachment. **Sections 6-47** of this bill provide for nonprobate transfers of property, including certain real property, at the death of the owner of the property. Specifically, **sections 41 and 42** govern the registration of property in beneficiary form and the extent to which the designation of a beneficiary may be revoked or changed during the lifetime of the owner of the property or in the owner's will. **Sections 40 and 45** set forth the rights of the beneficiary during the lifetime of the owner of the property and at the owner's death. **Sections 48-64** of this bill adopt provisions governing accounts in financial institutions in which one or more persons have an interest. **Section 49** provides that an account may: (1) be owned by a single party or by multiple parties; and (2) include a payable-n-eath beneficiary designation or an agency designation, or both. **Section 50** provides sample forms for establishing multiple-person accounts. **Section 53** provides that an account is owned by the parties during their lifetimes in accordance with each party's net contribution to the account. **Section 54** sets forth the rights of the parties with respect to an account upon the death of a party.

Existing law generally provides for the enforcement of a no-contest clause in a will or a trust. (NRS 137.005, 163.00195) **Sections 73 and 177** of this bill provide, with certain exceptions, that a devisee's or beneficiary's share may be reduced or eliminated under a no-contest clause by conduct that is set forth by the testator in the will or by the settlor in the trust. Similarly, **sections 70 and 176** of this bill provide that a disposition of property and the appointment of a fiduciary including, without limitation, a personal representative and a trustee, may be dependent on conditions set forth by the testator in a will or by the settlor in the trust. **Sections 76-144** of this bill set forth the Independent Administration of Estates Act, which allows a personal representative to administer most aspects of a decedent's estate without court supervision. Pursuant to **sections 86 and 88**, the court may: (1) grant the personal representative full authority or limited authority to administer the decedent's estate; or (2) revoke the personal representative's authority to administer the decedent's estate without court supervision. **Section 90** provides that if a personal representative is granted limited authority to administer the estate, court supervision is required for certain actions, including the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate. **Section 90** further provides that if the personal representative has been granted full authority to administer the estate, court supervision for the sale of property of the estate, exchange of property of the estate or granting of an option to purchase property of the estate is required only under certain circumstances. **Sections 93-106 and 128** of this bill require the personal representative to give notice of a proposed action when exercising certain powers without court supervision, including selling real property of the estate. **Sections 107-115** of this bill require the personal representative to give notice of the proposed action under certain circumstances when exercising certain powers. **Sections 116-127** of this bill authorize the personal representative to exercise certain powers without giving notice of the proposed action, including the power to pay taxes and assessments and expenses incurred in the collection, care and administration of the estate.

Sections 202 and 203 of this bill adopt provisions concerning spendthrift trusts. Further, **sections 204-206** of this bill amend existing law concerning the powers and responsibilities of a settlor or trustee for a spendthrift trust.

Section 209 of this bill repeals the Uniform TOD Security Registration Act and other statutes related to nonprobate transfers of certain accounts because those issues are addressed in **sections 32-64** of this bill which govern nonprobate transfers on death.

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

Section 1. 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 ~~{}~~ **that is a contingent interest**, if the ~~{interest}~~ **contingency** has not been ~~{distributed from the trust;}~~ **satisfied or removed**;

(b) A ~~{remainder}~~ **present or future** interest in the **income or principal of a** 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~~ **for which** discretionary power **is** 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}}~~ (c) 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}}~~ (d) Certain powers held by a trust protector or certain other persons;

~~{{f}}~~ and

(e) 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 ***present or future interest in the income or principal of a trust that is 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; ***and***

(b) A ***present or future interest in the income or principal of a trust that is 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).

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 exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion 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 for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT 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. 2. 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}~~ **distribution** interest in the trust as defined in NRS ~~{163.4145 if the interest has not been distributed;}~~ **163.4155 that is a contingent interest, if the contingency has not been satisfied or removed;**

(2) A ~~{remainder}~~ **distribution** 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~~ **163.4155 that is a** discretionary interest ~~{in the trust}~~ as described in NRS 163.4185, if the interest has not been distributed;

~~{(4)}~~ (3) A power of appointment in the trust as defined in NRS 163.4157 regardless of whether the power has been ~~{distributed or transferred}~~;

—~~(5)}~~ **exercised;**

(4) 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)}~~ **exercised; and**

(5) 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.}~~ **exercised.**

(dd) If a trust contains a spendthrift provision:

(1) A ~~{mandatory}~~ **distribution** interest in the trust as **defined in NRS 163.4155 that is a mandatory interest as** described in NRS 163.4185, if the interest has not been distributed; **and**

(2) Notwithstanding a beneficiary's right to enforce a support interest, a ~~{support}~~ **distribution** interest in the trust as **defined in NRS 163.4155 that is a support interest 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.}~~

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. 3. 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 ~~that is a contingent interest, if the interest has not been distributed from the trust;~~ **satisfied or removed;**

(b) A ~~remainder~~ **present or future** interest in the **income or principal of a** trust ~~whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;~~

~~—(e) A~~ **for which** discretionary power **is** 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)}} (c)~~ 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)}} (d)~~ Certain powers held by a trust protector or certain other persons;

~~{{(f)}} and~~

(e) 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 ***present or future interest in the income or principal of a trust that is 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; **and**

(b) A ***present or future interest in the income or principal of a trust that is 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).

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 exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion 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 hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT 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. 4. NRS 41B.090 is hereby amended to read as follows:

41B.090 "Governing instrument" means any of the following:

1. A deed or any other instrument that transfers any property, interest or benefit.

2. An annuity or a policy of insurance.

3. A trust, whether created by an instrument executed during the life of the settlor, a testamentary instrument or any other instrument, judgment or decree, including, without limitation, any of the following:

(a) An express trust, whether private or charitable, and any additions to such a trust.

(b) A trust created or determined by a judgment or decree under which the trust is to be administered in the manner of an express trust.

4. A will, a codicil or any other testamentary instrument, including, without limitation, a testamentary instrument that:

(a) Appoints a person to serve in a fiduciary or representative capacity, nominates a guardian or revokes or revises another will, codicil or testamentary instrument; or

(b) Excludes or limits the right of a person or class of persons to succeed to any property, interest or benefit pursuant to the laws of intestate succession.

5. Any account or deposit that is payable or transferable on the death of a person or any instrument that provides for the payment or transfer of any property, interest or benefit on the death of a person.

6. A security registered as transferable on the death of a person . ~~for a security registered in beneficiary form pursuant to NRS 111.480 to 111.650, inclusive.~~

7. Any instrument creating or exercising a power of appointment or a durable or nondurable power of attorney.

8. Any instrument that appoints or nominates a person to serve in any fiduciary or representative capacity, including, without limitation, an agent, guardian, executor, personal representative or trustee.

9. Any public or private plan or system that entitles a person to the payment or transfer of any property, interest or benefit, including, without limitation, a plan or system that involves any of the following:

(a) Pension benefits, retirement benefits or other similar benefits.

(b) Profit-sharing or any other form of participation in profits, revenues, securities, capital or assets.

(c) Industrial insurance, workers' compensation or other similar benefits.

(d) Group insurance.

10. A partnership agreement or an agreement concerning any joint adventure, enterprise or venture.

11. A premarital, antenuptial or postnuptial agreement, a marriage contract or settlement or any other similar agreement, contract or settlement.

12. Any instrument that declares a homestead pursuant to chapter 115 of NRS.

13. Any other dispositive, appointive, nominative or declarative instrument.

Sec. 5. Chapter 111 of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 64, inclusive, of this act.

Sec. 6. *As used in sections 6 to 64, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 7 to 31, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 7. *"Account" means an agreement of deposit between a depositor and a financial institution and includes a checking account, savings account, certificate of deposit and share account.*

Sec. 8. *"Agent" has the meaning ascribed to it in NRS 132.045.*

Sec. 9. *"Beneficiary" has the meaning ascribed to it in NRS 132.050.*

Sec. 10. *"Contract" includes an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account, custodial agreement, deposit agreement, compensation agreement, deferred compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement or other written instrument of a similar nature.*

Sec. 11. *"Devisee" has the meaning ascribed to it in NRS 132.100.*

Sec. 12. *"Financial institution" means an organization authorized to do business under state or federal laws relating to financial institutions and includes a bank, thrift company, trust company, savings bank, building and loan association, savings and loan company or association and credit union.*

Sec. 13. *"Governing instrument" has the meaning ascribed to it in NRS 132.155.*

Sec. 14. *"Heirs" has the meaning ascribed to it in NRS 132.165.*

Sec. 15. *"Held in beneficiary form" means the holding of property which has been registered in beneficiary form or another writing that names the owner of the property followed by a transfer-on-death direction and the designation of a beneficiary.*

Sec. 16. *"Multiple-party account" means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned.*

Sec. 17. 1. *"Nonprobate transfer" means a transfer of any property or interest in property from a decedent to one or more other persons by operation of law or by contract that is effective upon the death of the decedent and includes, without limitation:*

(a) A transfer by right of survivorship, including a transfer pursuant to subsection 1 of NRS 115.060;

(b) A transfer by deed upon death pursuant to NRS 111.109; and

(c) A security registered as transferable on the death of a person.

2. The term does not include:

(a) Property that is subject to administration in probate of the estate of the decedent;

(b) Property that is set aside, without administration, pursuant to NRS 146.070; and

(c) Property transferred pursuant to an affidavit as authorized by NRS 146.080.

Sec. 18. "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

Sec. 19. "Payment," as it relates to sums on deposit, includes withdrawal, payment to a party or third person pursuant to a check or other request and a pledge of sums on deposit by a party, or a set-off, reduction or other disposition of all or part of an account pursuant to a pledge.

Sec. 20. "Personal representative" has the meaning ascribed to it in NRS 132.265.

Sec. 21. "POD designation" means the designation of:

1. A beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all the parties to one or more beneficiaries; or

2. A beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

Sec. 22. "Receive," as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established or, if the terms of the account require notice at a particular place, in the place required.

Sec. 23. "Register in beneficiary form" means to title an account record, certificate or other written instrument evidencing ownership of property in the name of the owner followed by a transfer-on-death direction as described in section 42 of this act and the designation of a beneficiary.

Sec. 24. "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution. For the purposes of sections 6 to 64, inclusive, of this act, if the terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

Sec. 25. *"State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession subject to the jurisdiction of the United States.*

Sec. 26. *"Sums on deposit" means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of the death of a party.*

Sec. 27. *"Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the deposit.*

Sec. 28. *"Transferring entity" means a person who owes a debt or is obligated to pay money or benefits, render contract performance, deliver or convey property, or change the record of ownership of property on the books, records and accounts of an enterprise or on a certificate or document of title that evidences property rights, and includes any governmental agency or business entity that, or transfer agent who, issues certificates of ownership or title to property and a person acting as a custodial agent for an owner's property.*

Sec. 29. *"Trust" has the meaning ascribed to it in NRS 132.350.*

Sec. 30. *"Trustee" has the meaning ascribed to it in NRS 132.355.*

Sec. 31. *"Will" has the meaning ascribed to it in NRS 132.370.*

Sec. 32. 1. *A provision for a nonprobate transfer on death in a contract is nontestamentary and includes any written provision that:*

(a) Money or other benefits due to, controlled by or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later;

(b) Money due or to become due under the contract ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(c) Any property controlled by or owned by the decedent before death which is the subject of the contract passes to a person whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later.

2. *A nonprobate transfer described in subsection 1:*

(a) Is exempt from the requirements of chapter 133 of NRS;

(b) Is not subject to administration as part of the person's estate at death;

(c) Is not subject to distribution pursuant to the decedent's will or pursuant to chapter 134 of NRS, except to the extent that the beneficiary designation fails; and

(d) May be established in conjunction with the ownership registration of an asset, as provided in section 36 of this act.

3. *A beneficiary designation that involves an interest in real property must be done in the form of a deed that satisfies the requirements of NRS 111.109.*

4. Upon a decedent's death:

(a) Money or other benefits due to, controlled by or owned by that decedent before death must be paid after the decedent's death to the beneficiary whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later;

(b) If the contract provides that money due or to become due under the contract ceases to be payable in the event of the death of the promisee or the promisor before payment or demand, such provision is effective; and

(c) Any property controlled by or owned by the decedent before death which is the subject of the contract passes to the beneficiary whom the decedent designates in the contract or in a separate writing, including a will, executed before or at the same time as the contract, or later.

5. Notwithstanding the provisions of this section to the contrary, a writing separate from a contract is not effective to the extent it violates the terms of the contract unless it is signed or otherwise ratified by all parties to the contract.

6. Nothing in sections 32 to 64, inclusive, of this act authorizes a married person to transfer or otherwise affect the community property rights of that person's spouse.

Sec. 33. For the purpose of discharging its duties under sections 32 to 46, inclusive, of this act, the authority of a transferring entity acting as agent for an owner of property subject to a nonprobate transfer does not cease at the death of the owner. The transferring entity shall transfer the property to the designated beneficiary in accordance with the contract between the transferring entity and the deceased owner and with sections 32 to 46, inclusive, of this act.

Sec. 34. 1. Provision for a nonprobate transfer is a matter of agreement between the owner and the transferring entity, under such rules, terms and conditions as the owner and transferring entity may agree. Before a nonprobate transfer is effective, the contract may require:

(a) Submission to the transferring entity of a beneficiary designation under a governing instrument;

(b) Registration by a transferring entity of a transfer-on-death direction on any certificate or record evidencing ownership of property;

(c) The consent of a contract obligor for a transfer of performance due under the contract;

(d) The consent of a financial institution for a transfer of an obligation of the financial institution;

(e) The consent of a transferring entity for a transfer of an interest in the transferring entity; or

(f) Compliance with any other express condition.

2. Whenever a contract provision relating to a nonprobate transfer requires any of the conditions set forth in subsection 1, nothing in sections 32 to 46, inclusive, of this act imposes an obligation on a

transferring entity to accept an owner's request to make provision for a nonprobate transfer of property unless the conditions have been met.

3. *When a beneficiary designation, revocation or change is subject to acceptance by a transferring entity, the transferring entity's acceptance of the beneficiary designation, revocation or change relates back to and is effective as of the time when the request was received by the transferring entity.*

Sec. 35. *When a transferring entity accepts a beneficiary designation or beneficiary assignment or registers in beneficiary form certain property, the acceptance or registration constitutes the agreement of the owner and transferring entity that, unless the beneficiary designation is revoked or changed before the death of the owner, on proof of the death of the owner and compliance with the transferring entity's requirements for showing proof of entitlement, the property will be transferred to and placed in the name and control of the beneficiary in accordance with the beneficiary designation or transfer-on-death direction, the agreement of the parties and the provisions of sections 32 to 46, inclusive, of this act.*

Sec. 36. *A beneficiary designation, under a written instrument or law, that authorizes a transfer of property pursuant to a written designation of beneficiary transfers the right to receive the property to the designated beneficiary who survives, effective on the death of the owner, if the beneficiary designation is executed and delivered in proper form to the transferring entity before the death of the owner.*

Sec. 37. 1. *A written assignment of a contract right which assigns the right to receive any performance remaining due under the contract to an assignee designated by the owner and which expressly states that the assignment is not to take effect until the death of the owner transfers the right to receive performance due under the contract to the designated assignee beneficiary, effective on the death of the owner, if the assignment is executed and delivered in proper form to the contract obligor before the death of the owner or is executed in proper form and acknowledged before a notary public or other person authorized to administer oaths. A beneficiary assignment need not be supported by consideration or be delivered to the assignee beneficiary.*

2. *This section does not preclude other methods of assignment which are authorized by law and which have the effect of postponing enjoyment of a contract right until the death of the owner.*

Sec. 38. 1. *A deed of gift, bill of sale or other writing intended to transfer an interest in tangible personal property which expressly states that the transfer is not to take effect until the death of the owner transfers ownership to the designated transferee beneficiary, effective on the death of the owner, if the instrument is in other respects sufficient to transfer the type of property involved and is executed by the owner and acknowledged before a notary public or other person authorized to administer oaths. A*

beneficiary transfer instrument need not be supported by consideration or be delivered to any transferee beneficiary.

2. This section does not preclude other methods of transferring ownership of tangible personal property which are authorized by law and which have the effect of postponing enjoyment of property until the death of the owner.

Sec. 39. 1. A transferor of property, with or without consideration, may directly transfer the property to a transferee to be held in beneficiary form, as owner of the property.

2. A transferee under an instrument described in subsection 1 of section 32 of this act is the owner of the property for all purposes and has all the rights to the property otherwise provided by law to owners, including the right to revoke or change the beneficiary designation.

3. A direct transfer of property to a transferee to be held in beneficiary form is effective when the writing perfecting the transfer becomes effective to make the transferee the owner.

Sec. 40. 1. Before the death of the owner, a designated beneficiary has no rights in the property by reason of the beneficiary designation and the signature or agreement of the beneficiary is not required for any transaction respecting the property.

2. On the death of one of two or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners and the right of survivorship continues as between two or more surviving joint owners.

3. On the death of a sole owner, property passes by operation of law to the beneficiary.

4. If two or more beneficiaries survive, there is no right of survivorship among the beneficiaries in the event of the death of a beneficiary thereafter unless the beneficiary designation expressly provides for survivorship among them and, unless so expressly provided, surviving beneficiaries hold their separate interests in the property as tenants in common. The share of any subsequently deceased beneficiary belongs to that beneficiary's estate.

5. If no beneficiary survives the owner, the property belongs to the estate of the owner.

Sec. 41. 1. Unless a beneficiary designation is expressly made irrevocable, a beneficiary designation may be revoked or changed in whole or in part during the lifetime of the owner. A revocation or change of a beneficiary designation involving property of joint owners may only be made with the agreement of all owners then living.

2. A subsequent beneficiary designation revokes a previous beneficiary designation unless the subsequent beneficiary designation expressly provides otherwise.

3. A revocation or change in a beneficiary designation must comply with the terms of the governing instrument, the rules of the transferring entity and the applicable law.

4. *A beneficiary designation may not be revoked or changed by the provisions of a will unless the beneficiary designation expressly grants the owner the right to revoke or change a beneficiary designation by will. If a beneficiary designation is revoked by will, it must be revoked by an express provision in the will and extrinsic evidence is not admissible to establish the testator's intent concerning the beneficiary designation.*

5. *A transfer during the owner's lifetime of the owner's interest in property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.*

6. *The effective date of a revocation or change in a beneficiary designation must be determined in the same manner as the effective date of a beneficiary designation.*

Sec. 42. 1. *Property may be held in beneficiary form or registered in beneficiary form by including in the name in which the property is held or registered a direction to transfer the property on the death of the owner to a beneficiary designated by the owner.*

2. *Property is registered in beneficiary form by showing on the account record, security certificate or written instrument evidencing ownership of the property the name of the owner, and the form of ownership by which two or more joint owners hold the property, followed in substance by the words "transfer on death to..... (name of beneficiary)." In lieu of the words "transfer on death to," the words "pay on death to" or "pay on death to the owner's lineal descendants, per stirpes" or the abbreviation "TOD," "POD" or "LDPS" may be used. The designation of a person's heirs as beneficiaries does not make the property subject to administration as part of the person's estate, but the identities of the beneficiaries must be determined pursuant to chapter 134 of NRS as they relate to the owner's separate property.*

3. *A transfer-on-death direction may only be placed on an account record, security certificate or instrument evidencing ownership of property by the transferring entity or a person authorized by the transferring entity.*

4. *A transfer-on-death direction transfers the owner's interest in the property to the designated beneficiary, effective on the death of the owner, if the property is registered in beneficiary form before the death of the owner or if the request to make the transfer-on-death direction is delivered in proper form to the transferring entity before the death of the owner.*

5. *An account record, security certificate or written instrument evidencing ownership of property that contains a transfer-on-death direction written as part of the name in which the property is held or registered is conclusive evidence in the absence of fraud, duress, undue influence or evidence of clerical mistake by the transferring entity that the direction was regularly made by the owner and accepted by the transferring entity and was not revoked or changed before the death giving rise to the transfer. The transferring entity has no obligation to retain the original writing, if any, by which the owner caused the property to be held in*

beneficiary form or registered in beneficiary form, more than 6 months after the transferring entity has mailed or delivered to the owner, at the address shown on the registration, an account statement, certificate or instrument that shows the manner in which the property is held in beneficiary form or registered in beneficiary form.

Sec. 43. Any interest in property that would be distributed by nonprobate transfer to or for a beneficiary who is disqualified as a beneficiary pursuant to chapter 41B of NRS must be transferred as if the disqualified beneficiary had disclaimed the interest immediately upon the decedent's death.

Sec. 44. An agent, guardian of the person or other fiduciary may not make, revoke or change a beneficiary designation unless:

1. The power of attorney or other document establishing the agent, guardian or other fiduciary's right to act or a court order expressly authorizes such action; and

2. The action complies with the terms of the governing instrument, the rules of the transferring entity and applicable law.

Sec. 45. If property subject to a beneficiary designation is lost, destroyed, damaged or involuntarily converted during the owner's lifetime, the beneficiary succeeds to any right with respect to the loss, destruction, damage or involuntary conversion which the owner would have had if the owner had survived but has no interest in any payment or substitute property received by the owner during the owner's lifetime.

Sec. 46. 1. Except as otherwise provided in NRS 21.090 and other applicable law, a transferee of a nonprobate transfer is liable to the probate estate of the decedent for allowed claims against that decedent's probate estate to the extent the estate is insufficient to satisfy those claims.

2. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.

3. Nonprobate transferees are liable for the insufficiency described in subsection 1 in the following order of priority:

(a) A transferee specified in the decedent's will or any other governing instrument as being liable for such an insufficiency, in the order of priority provided in the will or other governing instrument;

(b) The trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received or controlled; and

(c) Other nonprobate transferees, in proportion to the values received.

4. Unless otherwise provided by the trust instrument, interests of beneficiaries in all trusts incurring liabilities under this section abate as necessary to satisfy the liability, as if all the trust instruments were a single will and the interests were devised under it.

5. If a nonprobate transferee is a spouse or a minor child, the nonprobate transferee may petition the court to be excluded from the

liability imposed by this section as if the nonprobate property received by the spouse or minor child were part of the decedent's estate. Such a petition may be made pursuant to the applicable provisions of chapter 146 of NRS, including, without limitation, the provisions of NRS 146.010, NRS 146.020 without regard to the filing of an inventory and subsection 2 of NRS 146.070.

6. *A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.*

7. *Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in probate proceedings in this State, whether or not the transferee is located in this State.*

8. *If a probate proceeding is pending, a proceeding under this section may be commenced by the personal representative of the decedent's estate or, if the personal representative declines to do so, by a creditor in the name of the decedent's estate, at the expense of the creditor and not of the estate. If a creditor successfully establishes an entitlement to payment under this section, the court must order the reimbursement of the costs reasonably incurred by the creditor, including attorney's fees, from the transferee from whom the payment is to be made, subject to the limitations of subsection 2, or from the estate as a cost of administration, or partially from each, as the court deems just. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.*

9. *If a probate proceeding is not pending, a proceeding under this section may be commenced as a civil action by a creditor at the expense of the creditor.*

10. *If a proceeding is commenced pursuant to this section, it must be commenced:*

(a) *As to a creditor whose claim was allowed after proceedings challenging disallowance of the claim by the personal representative, within 60 days after final allowance of the claim by the probate court or within 1 year after the decedent's death, whichever is later.*

(b) *As to a creditor whose claim against the decedent is being adjudicated in a separate proceeding that is still pending 1 year after the decedent's death, within 60 days after the adjudication of the claim in favor of the creditor is final and no longer subject to reconsideration or appeal.*

(c) *As to the recovery of benefits paid for Medicaid, within 3 years after the decedent's death.*

(d) *As to all other creditors, within 1 year after the decedent's death.*

11. *Unless a written notice asserting that a decedent's probate estate is nonexistent or insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, the following rules apply:*

(a) Payment or delivery of assets by a financial institution, registrar or other obligor to a nonprobate transferee in accordance with the terms of the governing instrument controlling the transfer releases the obligor from all claims for amounts paid or assets delivered.

(b) A trustee receiving or controlling a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

12. Notwithstanding any provision of this section to the contrary:

(a) A creditor has no claim against property transferred pursuant to a power of appointment exercised by a decedent unless it was exercisable in favor of the decedent or the decedent's estate.

(b) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a nonprobate transfer after the death of the owner, in good faith:

(1) Takes the property free of any claims or of liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries under the nonprobate transfer or heirs of the owner's estate, in absence of actual knowledge that the transfer was improper; and

(2) Has no duty to verify sworn information relating to the nonprobate transfer. The protection provided by this subparagraph applies to information that relates to the ownership interest of the beneficiary in the property and the beneficiary's right to sell, encumber and transfer good title to a purchaser or lender and does not relieve a purchaser or lender from the notice imparted by instruments of record respecting the property.

13. As used in this section, "devise" has the meaning ascribed to it in NRS 132.095.

Sec. 47. 1. Except as otherwise provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced persons before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(a) Revokes any revocable:

(1) Disposition or appointment of property made by a divorced person to his or her former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced person's former spouse;

(2) Provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced person's former spouse or on a relative of the divorced person's former spouse; and

(3) Nomination in a governing instrument that nominates a divorced person's former spouse or a relative of the divorced person's former spouse to serve in any fiduciary or representative capacity, including a personal representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and

(b) Severs the interest of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship or as community property with a right of survivorship and transforms the interests of the former spouses into equal tenancies in common.

2. A severance under paragraph (b) of subsection 1 does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property which records are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

3. The provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

4. Any provisions revoked solely by this section are revived by the divorced person's remarriage to the former spouse or by a nullification of the divorce or annulment.

5. Unless a court in an action commenced pursuant to chapter 125 of NRS specifically orders otherwise, a restraining order entered pursuant to NRS 125.050 does not preclude a party to such an action from making or changing beneficiary designations that specify who will receive the party's assets upon the party's death.

6. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by the provisions of this section or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written or actual notice of any event affecting a beneficiary designation. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written or actual notice of a claimed forfeiture or revocation under this section.

7. Written notice of the divorce, annulment or remarriage or written notice of a complaint or petition for divorce or annulment must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the

decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

8. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice, or who receives from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. A former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to it under this section.

9. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted.

10. As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Divorce or annulment" means any divorce or annulment or any dissolution or declaration of invalidity of a marriage. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(c) "Divorced person" includes a person whose marriage has been annulled.

(d) "Governing instrument" means a governing instrument executed by a divorced person before the divorce or annulment of the person's marriage to the person's former spouse.

(e) "Relative of the divorced person's former spouse" means a person who is related to the divorced person's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced person by blood, adoption or affinity.

(f) "Revocable," with respect to a disposition, appointment, provision or nomination, means one under which the divorced person, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the person's former spouse or former spouse's relative, whether or not the divorced person was then empowered to designate himself or herself in place of his or her former spouse or in place of his or her former spouse's relative and whether or not the divorced person then had the capacity to exercise the power.

Sec. 48. *The provisions of sections 48 to 64, inclusive, of this act:*

1. Apply to accounts in financial institutions in this State for which ownership is determined under Nevada law.

2. Do not apply to:

(a) An account established for a partnership, joint venture or other organization for a business purpose;

(b) An account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association or charitable or civic organization; or

(c) A fiduciary or trust account in which the relationship is established other than by the terms of the account.

Sec. 49. *1. An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to subsection 3 of section 54 of this act, a single-party account or a multiple-party account may have a POD designation or an agency designation, or both.*

2. An account established before, on or after October 1, 2011, whether in the form prescribed in subsection 1 of section 50 of this act or in any other form, is a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, and is governed by sections 48 to 64, inclusive, of this act.

Sec. 50. *1. An agreement of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to an account of that type:*

UNIFORM SINGLE- OR MULTIPLE-PARTY ACCOUNT FORM
PARTIES [Name one or more parties]:.....

OWNERSHIP [Select one and initial]:

..... SINGLE-PARTY ACCOUNT

..... MULTIPLE-PARTY ACCOUNT

Parties own the account in proportion to net contributions, unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH [Select one and initial]:

..... SINGLE-PARTY ACCOUNT

At death of party, ownership passes as part of party's estate.

..... **SINGLE-PARTY ACCOUNT WITH POD
(PAY-ON-DEATH) DESIGNATION**
[Name one or more beneficiaries]:

.....
At death of party, ownership passes to POD beneficiaries and is not part of party's estate but may be subject to party's creditors.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP**

At death of party, ownership passes to surviving parties.

..... **MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY-ON-DEATH) DESIGNATION**
[Name one or more beneficiaries]:

.....
At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

..... **MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP**

At death of party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION
[Optional]

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

[To add agency designation to account, name one or more agents]:

.....
[Select one and initial]:

..... **AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES**

..... **AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES**

2. *An agreement of deposit that does not contain provisions in substantially the form provided in this section is governed by the provisions of sections 48 to 64, inclusive, of this act applicable to the type of account that most nearly conforms to the depositor's intent.*

Sec. 51. 1. *By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party to the account.*

2. *Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.*

3. *The death of the sole party or last surviving party terminates the authority of an agent.*

4. *Any designation of an agent on an account is revocable and may be superseded by a subsequent designation:*

(a) *With regard to a single-party account, by the party; and*

(b) *With regard to a multiple-party account, by the parties or a surviving party.*

↪ *Any designation of an agent is superseded by an acknowledged power of attorney, as described in chapter 162A of NRS, when a copy of that power of attorney is delivered to the financial institution.*

Sec. 52. *The provisions of sections 52 to 57, inclusive, of this act concerning beneficial ownership as between parties or as between parties and beneficiaries:*

1. *Apply only to controversies between those persons and their creditors and other successors.*

2. *Do not apply to the right of those persons to payment as determined by the terms of the account.*

Sec. 53. 1. *During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.*

2. *A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.*

3. *An agent in an account with an agency designation has no beneficial right to sums on deposit.*

4. *As used in this section, "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes any deposit life insurance proceeds added to the account by reason of the death of the party whose net contribution is in question.*

Sec. 54. 1. *Except as otherwise provided in sections 48 to 64, inclusive, of this act or in an applicable contract, on the death of a party, sums on deposit in a multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death,*

was beneficially entitled under section 53 of this act belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act belongs to the surviving parties in equal shares and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under section 53 of this act, and the right of survivorship continues between the surviving parties.

2. In an account with a POD designation:

(a) On the death of one of two or more parties, the rights in sums on deposit are governed by subsection 1.

(b) On the death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares and there is no right of survivorship in the event of the death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

3. Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by the death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under section 53 of this act is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For the purposes of this section, the designation of an account as a tenancy in common establishes that the account is without right of survivorship.

4. The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after the death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

Sec. 55. 1. The rights at death under section 54 of this act are determined by the type of account at the death of a party. The type of account may be altered by written notice given by a party to the financial institution to change the type of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

2. A right of survivorship arising from the express terms of the account, section 54 of this act or a POD designation may not be altered by a will.

Sec. 56. A transfer resulting from the application of section 54 of this act is effective by reason of the terms of the account involved and

sections 48 to 64, inclusive, of this act and is not testamentary or subject to estate administration. Nonprobate transfers are effective with or without consideration.

Sec. 57. A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 54 of this act may not be altered by a will.

Sec. 58. A financial institution may enter into an agreement of deposit for a multiple-party account to the same extent it may enter into an agreement of deposit for a single-party account, and may provide for a POD designation and an agency designation in a single-party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

Sec. 59. A financial institution, on request, may pay sums on deposit in a multiple-party account to:

- 1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when payment is requested and whether or not the party making the request survives another party; or*

- 2. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary, unless the account is without right of survivorship under section 49 of this act.*

Sec. 60. A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

- 1. One or more of the parties, whether or not another party is disabled, incapacitated or deceased when the payment is requested and whether or not a party survives another party;*

- 2. The beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or*

- 3. The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account as a party or beneficiary.*

Sec. 61. A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

Sec. 62. If a financial institution is required or authorized to make payment pursuant to sections 48 to 64, inclusive, of this act to a minor designated as a beneficiary, payment may be made pursuant to Nevada's

Uniform Act on Transfers to Minors, as set forth in chapter 167 of NRS, or an equivalent law in another jurisdiction.

Sec. 63. 1. *Payment made pursuant to sections 48 to 64, inclusive, of this act, in accordance with the type of account, discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries or their successors. Payment may be made whether or not a party, beneficiary or agent is disabled, incapacitated or deceased when payment is requested, received or made.*

2. *Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be authorized, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.*

3. *A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.*

4. *Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.*

Sec. 64. *A beneficiary of a nonprobate transfer takes the owner's interest in the property at death, subject to all conveyances, assignments, contracts, setoffs, licenses, easements, liens and security interests made by the owner or to which the owner was subject during the owner's lifetime. Subject to the limitation of subsection 2 of section 46:*

1. *A beneficiary of a nonprobate transfer of an account with a bank, savings and loan association, credit union, broker or mutual fund takes the owner's interest in the property at death, subject to all requests for payment of money issued by the owner before death, whether paid by the transferring entity before or after the death or unpaid.*

2. *The beneficiary is liable to the payee of an unsatisfied request for payment, to the extent that it represents an obligation that was enforceable against the owner during the owner's lifetime. To the extent that a claim properly paid by the personal representative of the owner's estate includes*

the amount of an unsatisfied request for payment to the claimant, the personal representative is subrogated to the rights of the claimant as payee.

3. Each beneficiary's liability with respect to an unsatisfied request for payment is limited to the same proportionate share of the request for payment as the beneficiary's proportionate share of the account under the beneficiary designation. Beneficiaries have the right of contribution among themselves with respect to requests for payment which are satisfied after the death of the owner, to the extent the requests for payment would have been enforceable by the payees.

4. In no event may a beneficiary's liability to payees, to the owner's estate and to other beneficiaries pursuant to this section, with respect to all requests for payment, exceed the value of the account received by the beneficiary. If a request for payment which would not have been enforceable under this section is satisfied from a beneficiary's share of the account, the beneficiary:

(a) Is not liable to any other payee or the owner's estate pursuant to this section for the amount so paid; and

(b) Has no right of contribution against other beneficiaries with respect to that amount.

Sec. 65. Chapter 132 of NRS is hereby amended by adding thereto a new section to read as follows:

"Nonprobate transfer" has the meaning ascribed to it in section 17 of this act.

Sec. 66. NRS 132.025 is hereby amended to read as follows:

132.025 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 132.030 to 132.370, inclusive, **and section 65 of this act** have the meanings ascribed to them in those sections.

Sec. 67. NRS 132.050 is hereby amended to read as follows:

132.050 "Beneficiary," as it relates to:

1. A trust, includes a person who has a present or future interest, vested or contingent, and the owner of an interest by assignment or other transfer;

2. A charitable trust, includes any person entitled to enforce the trust;

3. An instrument designating a beneficiary, includes a beneficiary of ~~{an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death or of a pension, profit-sharing, retirement or similar benefit plan or other}~~ **any nonprobate transfer ; {at death;}** and

4. A beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a beneficiary of a trust, a beneficiary under a designation, a donee, an appointee or a taker in default under a power of appointment, or a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised,

↳ but does not include a person who receives less than \$100 under a will.

Sec. 68. NRS 132.090 is hereby amended to read as follows:

132.090 "Designation of beneficiary" means a governing instrument naming a beneficiary of an insurance policy or annuity, of an account designated as payable on death, of a security registered as transferable on death, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer . ~~{at death.}~~

Sec. 69. NRS 132.185 is hereby amended to read as follows:

132.185 **1.** "Interested person" includes, without limitation, an heir, devisee, child, spouse, creditor, *settlor*, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent, including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid. The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons. The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

2. The term does not include:

(a) After a will has been admitted to probate, an heir, child or spouse who is not a beneficiary of the will, except for purposes of NRS 133.110, 133.160 and 137.080.

(b) A person with regard to a motion, petition or proceeding that does not affect an interest of that person.

(c) A creditor whose claim has not been accepted by the personal representative if the enforcement of the claim of the creditor is barred under the provisions of chapter 11 or 147 of NRS or any other applicable statute of limitation.

Sec. 70. Chapter 133 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a testator may:

1. Make a devise conditional upon a devisee's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and

2. Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the will, including, without limitation, as a personal representative, guardian or trustee.

Sec. 71. NRS 133.200 is hereby amended to read as follows:

133.200 ~~{When any estate is devised to any child or other relation of the testator, and the devisee dies before the testator, leaving lineal descendants, those descendants, in}~~ **In** the absence of a provision in the will to the contrary, ~~{take the estate so given by the will in the same manner as the devisee would have done if the devisee had survived the testator.}~~ **if any beneficiary who is a descendant of the testator dies before the testator, leaving lineal descendants, the property, share or beneficial interest that**

would have been distributed or allocated to that deceased beneficiary must be distributed or allocated to that beneficiary's descendants then living, by right of representation, to be distributed under the same terms that would have applied to the deceased beneficiary.

Sec. 72. Chapter 136 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a will.

Sec. 73. NRS 137.005 is hereby amended to read as follows:

137.005 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a will must be enforced by the court.

2. A no-contest clause must be construed to carry out the testator's intent. Except to the extent the will is vague or ambiguous, extrinsic evidence is not admissible to establish the testator's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. *Except as otherwise provided in subsections 3 and 4, a devisee's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the testator in the will, including, without limitation, any testamentary trust established in the will. Such conduct may include, without limitation:*

(a) Conduct other than formal court action; and

(b) Conduct which is unrelated to the will itself, including, without limitation:

(1) The commencement of civil litigation against the testator's probate estate or family members;

(2) Interference with the administration of a trust or a business entity;

(3) Efforts to frustrate the intent of the testator's power of attorney; and

(4) Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the testator.

3. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated if the devisee seeks only to:

(a) Enforce the terms of the will ~~{;}~~ or any document referenced in or affected by the will;

(b) Enforce the devisee's legal rights in the probate proceeding; or

(c) Obtain a court ruling with respect to the construction or legal effect of the will.

4. Notwithstanding any provision to the contrary in the will, a devisee's share must not be reduced or eliminated under a no-contest clause because the devisee institutes legal action seeking to invalidate a will if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~{there was a substantial likelihood that}~~ the will ~~{was}~~ is invalid.

5. As used in this section, "no-contest clause" means one or more provisions in a will that express a directive to reduce or eliminate the share allocated to a devisee or to reduce or eliminate the distributions to be made to a devisee if the devisee takes action to frustrate or defeat the testator's intent as expressed in the will.

Sec. 74. NRS 141.120 is hereby amended to read as follows:

141.120 ~~{An}~~ *Except as otherwise provided in section 170 of this act, an* interested person may appear at the hearing and file allegations in writing, showing that the personal representative should be removed.

Sec. 75. Chapter 143 of NRS is hereby amended by adding thereto the provisions set forth as sections 76 to 144, inclusive, of this act.

Sec. 76. *Sections 76 to 144, inclusive, of this act may be cited as the Independent Administration of Estates Act.*

Sec. 77. *As used in sections 76 to 144, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 78, 79 and 80 of this act have the meanings ascribed to them in those sections.*

Sec. 78. *"Court supervision" means the judicial order, authorization, approval, confirmation or instructions that would be required if authority to administer the estate had not been granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 79. *"Full authority" means the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 80. *"Limited authority" means authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act that includes all the powers granted pursuant to sections 76 to 144, inclusive, of this act, except the power to do any of the following:*

- 1. Sell real property.*
- 2. Exchange real property.*
- 3. Grant an option to purchase real property.*
- 4. Borrow money with the loan secured by an encumbrance upon real property.*

Sec. 81. *The personal representative may not be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the decedent's will provides that the estate must not be administered pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 82. *A special administrator may be granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act if the special administrator is appointed with, or has been granted, the powers of a general personal representative.*

Sec. 83. *The provisions of sections 76 to 144, inclusive, of this act apply in any case where authority to administer the estate is granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 84. *1. To obtain authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative must*

petition the court for that authority in a petition for appointment of the personal representative or in a separate petition filed in the estate proceedings.

2. The personal representative may request either of the following:

(a) Full authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) Limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

Sec. 85. 1. If the authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is requested in a petition for appointment of the personal representative, notice of the hearing on the petition must be given for the period and in the manner applicable to the petition for appointment.

2. Where proceedings for the administration of the estate are pending at the time a petition is filed pursuant to section 84 of this act, notice of the hearing on the petition must be given for the period and in the manner provided in NRS 155.010 to all the following persons:

(a) Each person specified in NRS 155.010;

(b) Each known heir whose interest in the estate would be affected by the petition;

(c) Each known devisee whose interest in the estate would be affected by the petition; and

(d) Each person named as personal representative in the will of the decedent.

3. The notice of hearing of the petition for authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, whether included in the petition for appointment or in a separate petition, must include a statement in substantially the following form:

The petition requests authority to administer the estate under the Independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. Independent administration authority will be granted unless good cause is shown why it should not be.

Sec. 86. 1. Except as otherwise provided in subsection 2, unless an interested person objects in writing at or before the hearing to the granting of authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act and the court determines that the interested person has shown good cause why the authority to administer the estate under those provisions should not be granted, the court shall grant the requested authority.

2. If the interested person has shown good cause why only limited authority should be granted, the court shall grant limited authority.

Sec. 87. 1. If the personal representative is otherwise required to file a bond and has full authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property, the estimated value of the decedent's interest in the real property authorized to be sold pursuant to sections 76 to 144, inclusive, of this act and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.

2. If the personal representative is otherwise required to file a bond and has limited authority, the court shall fix the amount of the bond at not more than the estimated value of the personal property and the probable annual gross income of the estate or, if the bond is to be given by personal sureties, at not less than twice that amount.

Sec. 88. 1. Any interested person may file a petition requesting that the court make either of the following orders:

(a) An order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act; or

(b) An order revoking the full authority of the personal representative to administer the estate pursuant to sections 76 to 144, inclusive, of this act and granting the personal representative limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. The petition must set forth the basis for the requested order.

3. The petitioner shall give notice for the period and in the manner provided in NRS 155.010.

4. If the court determines that good cause has been shown, the court shall make an order revoking the authority of the personal representative to continue administration of the estate pursuant to sections 76 to 144, inclusive, of this act. Upon the making of the order, new letters must be issued without the authority to act pursuant to sections 76 to 144, inclusive, of this act.

5. If the personal representative was granted full authority and the court determines that good cause has been shown, the court shall make an order revoking the full authority and granting the personal representative limited authority. Upon the making of the order, new letters must be issued indicating whether the personal representative is authorized to act pursuant to sections 76 to 144, inclusive, of this act and, if so authorized, whether the independent administration authority includes or excludes the power to do any of the following:

(a) Sell real property;

(b) Exchange real property;

(c) Grant an option to purchase real property; or

(d) Borrow money with the loan secured by an encumbrance upon real property.

Sec. 89. 1. Subject to the limitations and conditions of sections 76 to 144, inclusive, of this act, a personal representative who has been granted

authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may administer the estate as provided pursuant to sections 76 to 144, inclusive, of this act without court supervision, but in all other respects, the personal representative shall administer the estate in the same manner as a personal representative who has not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.

2. Notwithstanding the provisions of subsection 1, the personal representative may obtain court supervision of any action to be taken by the personal representative during administration of the estate.

Sec. 90. 1. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, whether the personal representative has been granted limited authority or full authority, a personal representative who has obtained authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court approval for any of the following actions:

- (a) Allowance of the personal representative's compensation;*
- (b) Allowance of compensation of the attorney for the personal representative;*
- (c) Settlement of accounts;*
- (d) Preliminary and final distributions and discharge;*
- (e) Sale of property of the estate to the personal representative or to the attorney for the personal representative;*
- (f) Exchange of property of the estate for property of the personal representative or for property of the attorney for the personal representative;*
- (g) Grant of an option to purchase property of the estate to the personal representative or to the attorney for the personal representative;*
- (h) Allowance, payment or compromise of a claim of the personal representative, or the attorney for the personal representative, against the estate;*
- (i) Compromise or settlement of a claim, action or proceeding by the estate against the personal representative or against the attorney for the personal representative;*
- (j) Extension, renewal or modification of the terms of a debt or other obligation of the personal representative, or the attorney for the personal representative, owing to or in favor of the decedent or the estate; and*
- (k) Any transaction described in this section that would indirectly benefit the personal representative, a relative of the personal representative, the attorney for the personal representative or the attorney for a relative of the personal representative.*

2. Notwithstanding any provision of sections 76 to 144, inclusive, of this act to the contrary, a personal representative who has obtained limited authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act is required to obtain court supervision for any of the following actions:

- (a) *Sale of real property;*
- (b) *Exchange of real property;*
- (c) *Grant of an option to purchase real property; and*
- (d) *Borrowing money with the loan secured by an encumbrance upon real property.*

3. Paragraphs (e) to (k), inclusive, of subsection 1 do not apply to a transaction between the personal representative in his or her capacity as a personal representative and the personal representative as a person if all the following requirements are satisfied:

- (a) *The personal representative is the sole beneficiary of the estate or all the known heirs or devisees have consented to the transaction;*
- (b) *The period for filing creditor claims has expired;*
- (c) *No request for special notice pursuant to NRS 155.030 is on file or all persons who filed a request for special notice have consented to the transaction; and*
- (d) *The claim of each creditor who filed a claim has been paid, settled or withdrawn, or the creditor has consented to the transaction.*

4. As used in this section, "relative" has the meaning ascribed to it in NRS 163.020.

Sec. 91. 1. Subject to the conditions and limitations of sections 76 to 144, inclusive, of this act and to the duties and liabilities of the personal representative, a personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act has the powers described in:

- (a) *Sections 93 to 106, inclusive, of this act with regard to powers that are exercisable only after giving a notice of proposed action;*
- (b) *Sections 107 to 115, inclusive, of this act with regard to powers the exercise of which requires giving a notice of proposed action under certain circumstances; and*
- (c) *Sections 116 to 127, inclusive, of this act with regard to powers that are exercisable without giving a notice of proposed action.*

2. The will may restrict the powers that the personal representative may exercise pursuant to sections 76 to 144, inclusive, of this act.

Sec. 92. 1. Subject to the limitations and requirements of sections 76 to 144, inclusive, of this act, when the personal representative exercises the authority to sell property of the estate pursuant to sections 76 to 144, inclusive, of this act, the personal representative may sell the property at public auction or private sale, and with or without notice, for cash or on credit, for such price and upon such terms and conditions as the personal representative may determine.

2. The requirements applicable to court confirmation of sales of real property referenced in subsection 1 include, without limitation:

- (a) *Publication of the notice of sale;*
- (b) *Court approval of agents' and brokers' commissions;*

(c) The sale being not less than 90 percent of appraised value of the real property;

(d) An examination by the court into the necessity for the sale of the real property, including, without limitation, any advantage to the estate and benefit to interested persons; and

(e) The efforts of the personal representative to obtain the highest and best price for the property reasonably attainable.

3. The requirements applicable to court confirmation of sales of real property and sales of personal property do not apply to a sale pursuant to this section.

Sec. 93. The personal representative may exercise the powers described in sections 93 to 106, inclusive, of this act only if the requirements of sections 128 to 140, inclusive, of this act are satisfied.

Sec. 94. The personal representative who has full authority has the power to sell or exchange real property of the estate.

Sec. 95. The personal representative who has limited authority or full authority has the power to sell or incorporate any of the following:

1. An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death; and

2. An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.

Sec. 96. The personal representative who has limited authority or full authority has the power to abandon tangible personal property where the cost of collecting, maintaining and safeguarding the property would exceed its fair market value.

Sec. 97. 1. Subject to the limitations provided in subsection 2 and NRS 143.180, the personal representative who has limited authority or full authority has the following powers:

(a) The power to borrow; and

(b) The power to place, replace, renew or extend any encumbrance upon any property of the estate.

2. Only a personal representative who has full authority has the power to borrow money with the loan secured by an encumbrance upon real property.

Sec. 98. The personal representative who has full authority has the power to grant an option to purchase real property of the estate for a period within or beyond the period of administration.

Sec. 99. If the will gives a person the option to purchase real or personal property and the person has complied with the terms and conditions stated in the will, the personal representative who has limited authority or full authority has the power to convey or transfer the property to the person.

Sec. 100. The personal representative who has limited authority or full authority has the power to convey or transfer real or personal property to

complete a contract entered into by the decedent to convey or transfer the property.

Sec. 101. *The personal representative who has limited authority or full authority has the power to allow, compromise or settle any of the following:*

1. A third-party claim to real or personal property if the decedent died in possession of, or holding title to, the property; or

2. The decedent's claim to real or personal property, title to or possession of which is held by another.

Sec. 102. *The personal representative who has limited authority or full authority has the power to make a disclaimer.*

Sec. 103. *If the time for filing creditor claims has expired and it appears that the distribution may be made without loss to creditors or injury to the estate or any interested person, the personal representative who has limited authority or full authority has the power to make preliminary distributions of the following:*

1. Income received during administration to the persons entitled thereto pursuant to the decedent's will or by intestate succession.

2. Household furniture and furnishings, motor vehicles, clothing, jewelry and other tangible articles of a personal nature to the persons entitled to the property under the decedent's will, not to exceed an aggregate fair market value to all persons of \$50,000 computed cumulatively through the date of distribution. Fair market value must be determined on the basis of the inventory and appraisal.

3. Cash to general pecuniary devisees entitled to it under the decedent's will, not to exceed \$10,000 to any one person.

Sec. 104. *The personal representative who has limited authority or full authority has the power to do all the following:*

1. Allow, pay, reject or contest any claim by or against the estate.

2. Compromise or settle a claim, action or proceeding by or for the benefit of, or against, the decedent, the personal representative or the estate.

3. Release, in whole or in part, any claim belonging to the estate to the extent that the claim is uncollectible.

4. Allow a claim to be filed after the expiration of the time for filing the claim.

Sec. 105. *The personal representative who has limited authority or full authority has the power to do all the following:*

1. Commence and maintain actions and proceedings for the benefit of the estate.

2. Defend actions and proceedings against the decedent, the personal representative or the estate.

Sec. 106. *The personal representative who has limited authority or full authority has the power to extend, renew or in any manner modify the terms of an obligation owing to or in favor of the decedent or the estate.*

Sec. 107. Except as otherwise provided in sections 107 to 115, inclusive, of this act, the personal representative who has limited authority or full authority may exercise the powers described in sections 107 to 115, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 108. 1. The personal representative who has limited authority or full authority has the power to manage and control property of the estate, including making allocations and determinations pursuant to NRS 164.780 to 164.925, inclusive. Except as otherwise provided in subsection 2, such a personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act, and shall give notice of a proposed action in any case where a provision of sections 93 to 103, inclusive, of this act governing the exercise of a specific power so requires.

Sec. 109. 1. The personal representative who has limited authority or full authority has the power to enter into a contract to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act, including, without limitation, the powers granted by sections 108 and 117 of this act. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

2. The personal representative shall comply with the requirements of sections 128 to 140, inclusive, of this act and shall give notice of a proposed action where the contract is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the contract, except that the personal representative is not required to comply with those requirements if the personal representative has the unrestricted right under the contract to terminate the contract within 2 years after the date the parties entered into the contract.

3. Nothing in this section excuses compliance with the requirements of sections 128 to 140, inclusive, of this act when the contract is made to carry out the exercise of a specific power, and the provision that grants that power requires compliance with sections 128 to 140, inclusive, of this act for the exercise of the power.

Sec. 110. 1. The personal representative who has limited authority or full authority has the power to do all the following:

(a) Deposit money belonging to the estate in an insured account in a financial institution in this State;

(b) Invest money of the estate in any one or more of the following:

(1) Direct obligations of the United States, or of the State of Nevada, maturing not later than 1 year after the date of making the investment;

(2) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the

Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(3) Interest-bearing obligations of, or fully guaranteed by, the United States;

(4) Interest bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(5) Interest-bearing obligations of this State or of a county, city or school district of this State; or

(6) Money-market mutual funds that are invested only in obligations listed in subparagraphs (1) to (5), inclusive; or

(c) Invest money of the estate in any manner provided by the will.

2. The personal representative may exercise the powers described in subsection 1 without giving notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act.

Sec. 111. 1. *Subject to the partnership agreement and the applicable provisions of chapter 87 of NRS, the personal representative who has limited authority or full authority has the power to continue as a general partner in any partnership in which the decedent was a general partner at the time of death.*

2. The personal representative who has limited authority or full authority has the power to continue operation of any of the following:

(a) An unincorporated business or joint venture in which the decedent was engaged at the time of the decedent's death.

(b) An unincorporated business or joint venture which was wholly or partly owned by the decedent at the time of the decedent's death.

3. Except as otherwise provided in subsection 4, the personal representative may exercise the powers described in subsections 1 and 2 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act if the personal representative continues as a general partner under subsection 1, or continues the operation of any unincorporated business or joint venture under subsection 2, for a period of more than 6 months after the date on which letters are first issued to a personal representative.

Sec. 112. 1. *The personal representative who has limited authority or full authority has the power to pay a reasonable family allowance. Except as otherwise provided in subsection 2, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

2. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act for all the following:

(a) Making the first payment of a family allowance.

(b) Making the first payment of a family allowance for a period commencing more than 12 months after the death of the decedent.

(c) Making any increase in the amount of the payment of a family allowance.

Sec. 113. 1. *The personal representative who has limited authority or full authority has the power to enter as lessor into a lease of property of the estate for:*

(a) Any purpose, including, without limitation, exploration for and production or removal of minerals, oil, gas or other hydrocarbon substances or geothermal energy, including a community oil lease or a pooling or unitization agreement;

(b) A period within or beyond the period of administration; and

(c) Rental or royalty, or both, and upon such other terms and conditions as the personal representative may determine.

2. Except as otherwise provided in subsections 3 and 4, the personal representative may exercise this power without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

3. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of real property for a term in excess of 1 year. If the lease gives the lessee the right to extend the term of the lease, the lease must be considered as if the right to extend has been exercised.

4. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative enters into a lease of personal property and the lease is one that by its provisions is not to be fully performed within 2 years after the date the parties entered into the lease, except that the personal representative is not required to give notice of a proposed action if the personal representative has the unrestricted right under the lease to terminate the lease within 2 years after the date the parties entered into the lease.

Sec. 114. 1. *The personal representative who has limited authority or full authority has the power to sell personal property of the estate or to exchange personal property of the estate for other property upon such terms and conditions as the personal representative may determine. Except as otherwise provided in subsection 2, the personal representative shall give notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in exercising this power.*

2. The personal representative may exercise the power granted by subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act in case of the sale or exchange of any of the following:

(a) A security sold on an established stock or bond exchange;

(b) A security designated as a national market system security on an interdealer quotation system, or subsystem thereof, by the National Association of Securities Dealers Automated Quotations System, NASDAQ, sold through a broker-dealer registered under the Securities Exchange Act

of 1934, 15 U.S.C. §§ 78a et seq., during the regular course of business of the broker-dealer;

(c) Subscription rights for the purchase of additional securities which are owned by the estate by reason of the estate's ownership in securities if those rights are sold for cash; or

(d) Personal property which is perishable if the property is sold for cash.

Sec. 115. 1. *The personal representative who has limited authority or full authority has the following powers:*

(a) The power to grant an exclusive right to sell property for a period not to exceed 90 days.

(b) The power to grant to the same broker one or more extensions of an exclusive right to sell property, each extension being for a period not to exceed 90 days.

2. Except as otherwise provided in subsection 3, the personal representative may exercise the powers described in subsection 1 without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.

3. The personal representative shall give notice of a proposed action pursuant to sections 128 to 140, inclusive, of this act where the personal representative grants to the same broker an extension of an exclusive right to sell property and the period of the extension, together with the periods of the original exclusive right to sell the property and any previous extensions of that right, is more than 270 days.

Sec. 116. *The personal representative who has limited authority or full authority may exercise the powers described in sections 116 to 127, inclusive, of this act without giving notice of the proposed action pursuant to sections 128 to 140, inclusive, of this act.*

Sec. 117. *In addition to the powers granted to the personal representative pursuant to sections 76 to 144, inclusive, of this act, the personal representative who has limited authority or full authority has all the powers that the personal representative could exercise without court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 118. *The personal representative who has limited authority or full authority has the power to convey or transfer property to carry out the exercise of a specific power granted pursuant to sections 76 to 144, inclusive, of this act.*

Sec. 119. *The personal representative who has limited authority or full authority has the power to pay all the following:*

- 1. Taxes and assessments.*
- 2. Expenses incurred in the collection, care and administration of the estate.*

Sec. 120. *The personal representative who has limited authority or full authority has the power to purchase an annuity from an insurer admitted*

to do business in this State to satisfy a devise of an annuity or other direction in the will for periodic payments to a devisee.

Sec. 121. *The personal representative who has limited authority or full authority has the power to exercise an option right that is property of the estate.*

Sec. 122. *The personal representative who has limited authority or full authority has the power to purchase securities or commodities required to perform an incomplete contract of sale where the decedent died having sold but not delivered securities or commodities not owned by the decedent.*

Sec. 123. *The personal representative who has limited authority or full authority has the power to hold a security in the name of a nominee or in any other form without disclosure of the estate, so that title to the security may pass by delivery.*

Sec. 124. *The personal representative who has limited authority or full authority has the power to exercise security subscription or conversion rights.*

Sec. 125. *The personal representative who has limited authority or full authority has the power to make repairs and improvements to real and personal property of the estate.*

Sec. 126. *The personal representative who has limited authority or full authority has the power to accept a deed to property which is subject to a mortgage or deed of trust in lieu of foreclosure of the mortgage or sale under the deed of trust.*

Sec. 127. *The personal representative who has limited authority or full authority has the power to give a partial satisfaction of a mortgage or to cause a partial reconveyance to be executed by a trustee under a deed of trust held by the estate.*

Sec. 128. 1. *A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act shall give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act before taking the proposed action without court supervision if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action so require. Nothing in this subsection authorizes a personal representative to take an action pursuant to sections 76 to 144, inclusive, of this act if the personal representative does not have the power to take the action pursuant to those provisions.*

2. *A personal representative who has been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act may give notice of a proposed action as provided in sections 128 to 140, inclusive, of this act, even if the provisions of sections 89 to 127, inclusive, of this act giving the personal representative the power to take the action authorize the personal representative to take the action without giving notice of the proposed action. Nothing in this subsection requires the personal representative to give notice of a proposed action where not*

required under subsection 1 or authorizes a personal representative to take any action that the personal representative is not otherwise authorized to take.

Sec. 129. *Except as otherwise provided in sections 130 and 131 of this act, notice of a proposed action must be given to all the following:*

1. Each known devisee whose interest in the estate would be affected by the proposed action.

2. Each known heir whose interest in the estate would be affected by the proposed action.

3. Each person who has filed a request for special notice pursuant to NRS 155.030.

4. The Attorney General, at the Office of the Attorney General in Carson City, if any portion of the estate is to escheat to the State and its interest in the estate would be affected by the proposed action.

Sec. 130. *Notice of a proposed action need not be given to any person who consents in writing to the proposed action. The consent may be executed at any time before or after the proposed action is taken.*

Sec. 131. *1. Notice of a proposed action need not be given to any person who, in writing, waives the right to notice of a proposed action with respect to the particular proposed action. The waiver may be executed at any time before or after the proposed action is taken. The waiver must describe the particular proposed action and may waive particular aspects of the notice, such as the delivery, mailing or time requirements of section 134 of this act or the giving of the notice in its entirety for the particular proposed action.*

2. Notice of a proposed action need not be given to any person who has made either of the following:

(a) A general waiver of the right to notice of a proposed action.

(b) A waiver of the right to notice of a proposed action for all transactions of a type which includes the particular proposed action.

Sec. 132. *1. A waiver or consent pursuant to section 130 or 131 of this act may be revoked only in writing and is effective only when the writing is received by the personal representative.*

2. A copy of the revocation may be filed with the court, but the effectiveness of the revocation is not dependent upon a copy being filed with the court.

Sec. 133. *1. The notice of proposed action must state all the following:*

(a) The name and mailing address of the personal representative.

(b) The person and telephone number to call to get additional information.

(c) The action proposed to be taken, with a reasonably specific description of the action. If the proposed action involves the sale or exchange of real property or the granting of an option to purchase real property, the notice of proposed action must state the material terms of the

transaction, including, if applicable, the sale price and the amount of, or method of calculating, any commission or compensation paid or to be paid to an agent or broker in connection with the transaction.

(d) The date on or after which the proposed action is to be taken.

2. The notice of proposed action must include a form for objecting to the proposed action.

Sec. 134. The notice of proposed action must be mailed or personally delivered to each person required to be given notice of the proposed action not less than 15 days before the date specified in the notice of proposed action on or after which the proposed action is to be taken. If mailed, the notice of proposed action must be addressed to the person at the person's last known address. The notice of proposed action must be mailed or delivered in the manner provided in NRS 155.010.

Sec. 135. 1. Any person entitled to notice of a proposed action under section 129 of this act may object to the proposed action as provided in this section.

2. The objection to the proposed action must be made by delivering or mailing a written objection to the proposed action to the personal representative at the address stated in the notice of proposed action. The person objecting to the proposed action may use the form provided in section 143 of this act or may make the objection in any other writing that identifies the proposed action with reasonable certainty and indicates that the person objects to the taking of the proposed action.

3. The personal representative is deemed to have notice of the objection to the proposed action if the notice is delivered or received at the address stated in the notice of proposed action before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

*(b) The date on which the proposed action is actually taken,
↪ whichever occurs later.*

Sec. 136. 1. Any person who is entitled to notice of a proposed action for a proposed action described in subsection 1 of section 128 of this act, or any person who is given notice of a proposed action described in subsection 2 of section 128 of this act, may apply to the court having jurisdiction over the proceeding for an order restraining the personal representative from taking the proposed action without court supervision. The court shall grant the requested order without requiring notice to the personal representative and without cause being shown for the order.

2. The personal representative is deemed to have notice of the restraining order if the notice is given and served upon the personal representative in the manner provided in NRS 155.040 and 155.050, or in the manner authorized by the court, before:

(a) The date specified in the notice of proposed action on or after which the proposed action is to be taken; or

(b) The date on which the proposed action is actually taken,

↳ *whichever occurs later.*

Sec. 137. 1. *If the proposed action is one that would require court supervision if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, and the personal representative has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if the personal representative desires to take the proposed action, petition the court to obtain approval from the court.*

2. *If the proposed action is one that would not require court supervision even if the personal representative had not been granted authority to administer the estate pursuant to sections 76 to 144, inclusive, of this act, but the personal representative has given notice of the proposed action and has notice of a written objection made pursuant to section 135 of this act or a restraining order issued pursuant to section 136 of this act, the personal representative shall, if he or she desires to take the proposed action, request instructions from the court concerning the proposed action. The personal representative may take the proposed action only under such order as may be entered by the court.*

3. *A person who objects to a proposed action as provided in section 135 of this act or serves a restraining order issued pursuant to section 136 of this act in the manner provided in that section must be given notice of any hearing on a petition for court authorization or confirmation of the proposed action.*

Sec. 138. 1. *Except as otherwise provided in subsection 3, only a person described in section 129 of this act has a right to have the court review the proposed action after it has been taken or otherwise to object to the proposed action after it has been taken. Except as otherwise provided in subsections 2 and 3, a person described in section 129 of this act waives the right to have the court review the proposed action after it has been taken, or otherwise to object to the proposed action after it has been taken, if:*

(a) The person has been given notice of the proposed action, as provided in sections 128 to 134, inclusive, of this act, and fails to object as provided in subsection 4; or

(b) The person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act.

2. *Unless the person has waived notice of or consented to the proposed action as provided in sections 130 and 131 of this act, the court may review the action taken upon a petition filed by a person described in section 129 of this act who establishes that he or she did not actually receive the notice of proposed action before the time to object pursuant to subsection 4 expired.*

3. *The court may review the action of the personal representative upon a petition filed by an heir or devisee who establishes all the following:*

(a) At the time notice of the proposed action was given, the heir or devisee lacked capacity to object to the proposed action or was a minor;

(b) No notice of proposed action was actually received by the guardian, conservator or other legal representative of the heir or devisee;

(c) The guardian, conservator or other legal representative did not waive notice of the proposed action; and

(d) The guardian, conservator or other legal representative did not consent to the proposed action.

4. For the purposes of this section, an objection to a proposed action is made only by one or both of the following methods:

(a) Delivering or mailing a written objection as provided in section 135 of this act within the time specified in subsection 3 of that section; or

(b) Serving a restraining order obtained pursuant to section 136 of this act in the manner prescribed and within the time specified in subsection 2 of that section.

Sec. 139. 1. The failure of the personal representative who has limited authority or full authority to comply with subsection 1 of section 128 of this act and with sections 129, 133, 134 and 137 of this act, and the taking of the action by the personal representative without such compliance, does not affect the validity of the action so taken or the title to any property conveyed or transferred to bona fide purchasers or the rights of third persons who, dealing in good faith with the personal representative, changed their position in reliance upon the action, conveyance or transfer without actual notice of the failure of the personal representative to comply with those provisions.

2. A person dealing with the personal representative does not have any duty to inquire or investigate whether the personal representative has complied with the provisions listed in subsection 1.

Sec. 140. 1. In a case where notice of a proposed action is required by sections 128 to 140, inclusive, of this act, the court, in its discretion, may remove the personal representative from office unless the personal representative:

(a) Gives notice of the proposed action as provided in sections 128 to 140, inclusive, of this act;

(b) Obtains a waiver of notice of the proposed action as provided in sections 128 to 140, inclusive, of this act; or

(c) Obtains a consent to the proposed action as provided in sections 128 to 140, inclusive, of this act.

2. The court, in its discretion, may remove the personal representative from office if the personal representative takes a proposed action in violation of section 137 of this act.

Sec. 141. Letters testamentary or letters of administration pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

LETTERS TESTAMENTARY / ADMINISTRATION

On....., 20...., the court entered an order admitting the decedent's will to probate and appointing [.....] as personal representative of the decedent's estate. The order includes:

☐ full authority for the personal representative to administer the estate pursuant to the Independent Administration of Estates Act.

☐ limited authority to administer the estate pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

☐ a directive for the establishment of a blocked account for sums in excess of \$.....;

☐ a directive for the posting of a bond in the sum of \$.....; or

☐ a directive for both the establishment of a blocked account for sums in excess of \$..... and the posting of a bond in the sum of \$.....

The personal representative, after being duly qualified, may act and has the authority and duties of a personal representative.

In testimony of which, I have this date signed these letters and affixed the seal of the court.

CLERK OF THE COURT

By:.....

Deputy Clerk

Date:.....

OATH

I, [.....], whose mailing address is....., solemnly affirm that I will faithfully perform according to law the duties of personal representative, and that all matters stated in any petition or paper filed with the court by me are true of my own knowledge or, if any matters are stated on information and belief, I believe them to be true.

.....
[.....], Personal Representative

SUBSCRIBED AND AFFIRMED

before me this.... (day) of....., 20...

By:.....

NOTARY PUBLIC

County of....., State of Nevada

Sec. 142. A notice of proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:

NOTICE OF PROPOSED ACTION

Independent Administration of Estates Act

1. The personal representative of the estate of the deceased is.....

2. *The personal representative has authority to administer the estate without court supervision pursuant to the Independent Administration of Estates Act:*

[] with full authority pursuant to the Independent Administration of Estates Act; or

[] with limited authority pursuant to the Independent Administration of Estates Act. (There is no authority, without court supervision, to: (1) sell or exchange real property; (2) grant an option to purchase real property; or (3) borrow money with the loan secured by an encumbrance upon real property.)

3. *On or after.....(date), the personal representative will take the following action without court supervision:*

Describe in specific terms the proposed action.

If the action involves the sale or exchange of or a grant of an option to purchase real property, provide the sale price, the amount of or method of calculating any commission or compensation of the real estate broker and the value of the property in the probate inventory.

NOTICE: A sale of real property without court supervision means that the sale will NOT be presented to the court for confirmation at a hearing at which higher bids for the property may be presented and the property sold to the highest bidder.

4. *If you OBJECT to the proposed action:*

(a) Sign the objection form provided with this Notice of Proposed Action and deliver or mail it to the personal representative at the following address (specify name and address);

(b) Send your own written objection to the address set forth in paragraph (a), identifying the proposed action and state that you object to it; or

(c) Apply to the court for an order preventing the personal representative from taking the proposed action without court supervision.

NOTE: Your written objection or the court order must be received by the personal representative before the date indicated in item 3 or before the proposed action is taken, whichever is later. If you object, the personal representative may take the proposed action only under court supervision.

5. *If you approve of the proposed action, you may sign the consent form provided with this Notice of Proposed Action and return it to the address set forth in paragraph (a) of item 4. If you do not object in writing or obtain a court order, you will be treated as if you consented to the proposed action.*

6. *If you need more INFORMATION, call: (name) (telephone).*

Date:

Personal representative

Sec. 143. *An objection to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

OBJECTION TO PROPOSED ACTION

I OBJECT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: Sign and return this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. This form must be received before the date set forth in item 3 of the Notice of Proposed Action, or before the proposed action is taken, whichever is later. (You may want to use certified mail, with return receipt requested. Make a copy of this form for your records.)

Date:.....

.....
Type or print name

Signature of Objector

Sec. 144. *Consent to a proposed action pursuant to the Independent Administration of Estates Act as set forth in sections 76 to 144, inclusive, of this act may be in the following form:*

CONSENT TO PROPOSED ACTION

I CONSENT to the action proposed in item 3 of the Notice of Proposed Action.

NOTICE: You may indicate your consent by signing and returning this form – all pages – to the address set forth in paragraph (a) of item 4 of the Notice of Proposed Action. If you do not object in writing or obtain a court order, you will be treated as if you consent to the proposed action.

Date:.....

.....
Type or print name

Signature of Objector

Sec. 145. NRS 143.050 is hereby amended to read as follows:

143.050 ~~{After}~~ **Except as otherwise provided in section 111 of this act,** after notice given as provided in NRS 155.010 or in such other manner as the court directs, the court may authorize the personal representative to continue the operation of the decedent's business to such an extent and subject to such restrictions as may seem to the court to be for the best interest of the estate and any interested persons.

Sec. 146. NRS 143.140 is hereby amended to read as follows:

143.140 1. ~~{If}~~ **Except as otherwise provided in section 101, 104, 106, 126 or 127 of this act,** if a debtor of the decedent is unable to pay all debts, the personal representative, with the approval of the court, may give the person a discharge upon such terms as may appear to the court to be for the best interest of the estate.

2. A compromise may also be authorized by the court when it appears to be just and for the best interest of the estate.

3. The court may also authorize the personal representative, on such terms and conditions as may be approved by it, to extend or renew, or in any manner modify the terms of, any obligation owing to or running in favor of the decedent or the estate of the decedent.

4. To obtain approval or authorization the personal representative shall file a petition showing the advantage of the settlement, compromise, extension, renewal or modification. The clerk shall set the petition for hearing by the court, and the petitioner shall give notice for the period and in the manner required by NRS 155.010.

Sec. 147. NRS 143.175 is hereby amended to read as follows:

143.175 1. ~~{A}~~ *Except as otherwise provided in section 110 of this act,* a personal representative may, with court approval:

(a) Invest the property of the estate, make loans and accept security therefor, in the manner and to the extent authorized by the court; and

(b) Exercise options of the estate to purchase or exchange securities or other property.

2. A personal representative may, without prior approval of the court, invest the property of the estate in:

(a) Savings accounts in a bank, credit union or savings and loan association in this State, to the extent that the deposit is insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755;

(b) Interest-bearing obligations of, or fully guaranteed by, the United States;

(c) Interest-bearing obligations of the United States Postal Service or the Federal National Mortgage Association;

(d) Interest-bearing obligations of this State or of a county, city or school district of this State;

(e) Money-market mutual funds that are invested only in obligations listed in paragraphs (a) to (d), inclusive; or

(f) Any other investment authorized by the will of the decedent.

Sec. 148. Chapter 150 of NRS is hereby amended by adding thereto the provisions set forth as sections 149 and 150 of this act.

Sec. 149. *If the estate is set aside pursuant to NRS 146.070, the court may order reasonable attorney's fees and costs to be paid from the assets being set aside directly to the attorney for the petitioner.*

Sec. 150. 1. *Notwithstanding any provision to the contrary in the will, a personal representative who is an attorney retained to perform services for the personal representative may receive compensation for services as a personal representative or for services as an attorney for the personal representative, but not both, unless the court:*

(a) *Approves a different method of compensation in advance; and*

(b) Finds that method of compensation to be for the advantage, benefit and best interests of the decedent's estate.

2. The provisions of this section shall not be construed to disallow compensation for services rendered by an attorney as a personal representative if:

(a) Such services are included as part of the legal services of the attorney in a manner consistent with NRS 150.060; and

(b) The attorney does not receive compensation pursuant to subsection 1 of NRS 150.020.

3. The services which are rendered by a personal representative who is an attorney and for which compensation is requested pursuant to this section include services rendered by an employee, associate or partner in the same firm of such an attorney and services rendered by an affiliate of such an attorney.

4. As used in this section, "affiliate" has the meaning ascribed to it in NRS 163.020.

Sec. 151. NRS 150.010 is hereby amended to read as follows:

150.010 ~~{The}~~ A personal representative must be allowed all necessary expenses in the administration and settlement of the estate, and fees for services as provided by law, but if the decedent by will makes some other provision for the compensation of the personal representative, this shall be deemed a full compensation for those services, unless within 60 days after his or her appointment the personal representative files a renunciation, in writing, of all claim for the compensation provided by the will.

Sec. 152. NRS 150.050 is hereby amended to read as follows:

150.050 1. A personal representative, at any time after the issuance of letters and upon such notice to the interested persons as the court requires, may apply to the court for an allowance upon his or her fees.

2. On the hearing, the court shall enter an order allowing ~~{the}~~ a personal representative *who applied to the court pursuant to subsection 1* such portion of the fees, for services rendered up to that time, as the court deems proper, and the portion so allowed may be charged against the estate.

Sec. 153. NRS 150.060 is hereby amended to read as follows:

150.060 1. ~~{Attorneys for personal representatives are}~~ *An attorney for a personal representative is* entitled to reasonable compensation for ~~{their}~~ *the attorney's* services, to be paid out of the decedent's estate.

2. An attorney for a personal representative may be compensated based on:

- (a) The applicable hourly rate of the attorney;
- (b) The value of the estate accounted for by the personal representative;
- (c) An agreement as set forth in subsection 4 of NRS 150.061; or
- (d) Any other method preapproved by the court pursuant to a request in the initial petition for the appointment of the personal representative.

3. If the attorney is requesting compensation based on the hourly rate of the attorney, he or she may include, as part of that compensation for ordinary

services, a charge for legal services or paralegal services performed by a person under the direction and supervision of the attorney.

4. If the attorney is requesting compensation based on the value of the estate accounted for by the personal representative, the allowable compensation of the attorney for ordinary services must be determined as follows:

- (a) For the first \$100,000, at the rate of 4 percent;
- (b) For the next \$100,000, at the rate of 3 percent;
- (c) For the next \$800,000, at the rate of 2 percent;
- (d) For the next \$9,000,000, at the rate of 1 percent;
- (e) For the next \$15,000,000, at the rate of 0.5 percent; and
- (f) For all amounts above \$25,000,000, a reasonable amount to be determined by the court.

5. Before an attorney may receive compensation based on the value of the estate accounted for by the personal representative, the personal representative must sign a written agreement as required by subsection 8. The agreement must be prepared by the attorney and must include detailed information, concerning, without limitation:

- (a) The schedule of fees to be charged by the attorney;
- (b) The manner in which compensation for extraordinary services may be charged by the attorney; and
- (c) The fact that the court is required to approve the compensation of the attorney pursuant to subsection 8 before the personal representative pays any such compensation to the attorney.

6. For the purposes of determining the compensation of an attorney pursuant to subsection 4, the value of the estate accounted for by the personal representative:

- (a) Is the total amount of the appraisal of property in the inventory, plus:
 - (1) The gains over the appraisal value on sales; and
 - (2) The receipts, less losses from the appraisal value on sales; and
- (b) Does not include encumbrances or other obligations on the property of the estate.

7. In addition to the compensation for ordinary services of an attorney set forth in this section, an attorney may also be entitled to receive compensation for extraordinary services as set forth in NRS 150.061.

8. The compensation of the attorney must be fixed by written agreement between the personal representative and the attorney, and is subject to approval by the court, after petition, notice and hearing as provided in this section. If the personal representative and the attorney fail to reach agreement, or if the attorney is also the personal representative, the amount must be determined and allowed by the court. The petition requesting approval of the compensation of the attorney must contain specific and detailed information supporting the entitlement to compensation, including:

(a) If the attorney is requesting compensation based upon the value of the estate accounted for by the personal representative, the attorney must provide the manner of calculating the compensation in the petition; and

(b) If the attorney is requesting compensation based on an hourly basis, or is requesting compensation for extraordinary services, the attorney must provide the following information to the court:

- (1) Reference to time and hours;
- (2) The nature and extent of services rendered;
- (3) Claimed ordinary and extraordinary services;
- (4) The complexity of the work required; and
- (5) Other information considered to be relevant to a determination of entitlement.

9. The clerk shall set the petition for hearing, and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the fee which the court will be requested to approve or allow.

10. On similar petition, notice and hearing, the court may make an allowance to an attorney for services rendered up to a certain time during the proceedings. If the attorney is requesting compensation based upon the value of the estate as accounted for by the personal representative, the court may apportion the compensation as it deems appropriate given the amount of work remaining to close the estate.

11. An heir or devisee may file objections to a petition filed pursuant to this section, and the objections must be considered at the hearing.

12. Except as otherwise provided in this subsection, an attorney for minor, absent, unborn, incapacitated or nonresident heirs is entitled to compensation primarily out of the estate of the distributee so represented by the attorney in those cases and to such extent as may be determined by the court. If the court finds that all or any part of the services performed by the attorney for the minor, absent, unborn, incapacitated or nonresident heirs was of value to the decedent's entire estate as such and not of value only to those heirs, the court shall order that all or part of the attorney's fee be paid to the attorney out of the money of the decedent's entire estate as a general administrative expense of the estate. The amount of these fees must be determined in the same manner as the other attorney's fees provided for in this section.

Sec. 154. NRS 150.063 is hereby amended to read as follows:

150.063 **1.** If there are two or more attorneys for a personal representative, the compensation must be apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

2. If there are two or more personal representatives and the personal representatives have separate legal representation, each attorney for each personal representative is entitled to have the compensation for attorneys apportioned among the attorneys by the court according to the services actually rendered by each attorney unless otherwise provided in an agreement by the attorneys.

Sec. 155. NRS 150.065 is hereby amended to read as follows:

150.065 1. At any time after the expiration of the period for creditors of the estate to file their claims in a summary or full administration pursuant to NRS 145.060 or 147.040, as applicable, ~~the~~ a personal representative or ~~the~~ an attorney for ~~the~~ a personal representative may file a petition with the court for an allowance upon the compensation of the attorney for the personal representative.

2. The clerk shall set the petition for hearing and the petitioner shall give notice of the petition to the personal representative if he or she is not the petitioner and to all known heirs in an intestacy proceeding and devisees in a will proceeding. The notice must be given for the period and in the manner provided in NRS 155.010. If a complete copy of the petition is not attached to the notice, the notice must include a statement of the amount of the compensation which the court will be requested to approve or allow and the manner in which the compensation was determined.

3. On the hearing, the court may enter an order allowing the portion of the compensation of the attorney for the personal representative for such services rendered up to that time as the court deems proper. The order must authorize the personal representative to charge against the estate the amount of compensation allowed by the court pursuant to this subsection.

Sec. 156. Chapter 153 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in a will establishing a testamentary trust, a person holding a power of appointment pursuant to a testamentary trust does not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 157. NRS 153.031 is hereby amended to read as follows:

153.031 1. A trustee or beneficiary may petition the court regarding any aspect of the affairs of the trust, including:

- (a) Determining the existence of the trust;
- (b) Determining the construction of the trust instrument;
- (c) Determining the existence of an immunity, power, privilege, right or duty;
- (d) Determining the validity of a provision of the trust;
- (e) Ascertaining beneficiaries and determining to whom property is to pass or be delivered upon final or partial termination of the trust, to the extent not provided in the trust instrument;
- (f) Settling the accounts and reviewing the acts of the trustee, including the exercise of discretionary powers;

- (g) Instructing the trustee;
- (h) Compelling the trustee to report information about the trust or account, to the beneficiary;
- (i) Granting powers to the trustee;
- (j) Fixing or allowing payment of the trustee's compensation, or reviewing the reasonableness of the trustee's compensation;
- (k) Appointing or removing a trustee;
- (l) Accepting the resignation of a trustee;
- (m) Compelling redress of a breach of the trust;
- (n) Approving or directing the modification or termination of the trust;
- (o) Approving or directing the combination or division of trusts;
- (p) Amending or conforming the trust instrument in the manner required to qualify the estate of a decedent for the charitable estate tax deduction under federal law, including the addition of mandatory requirements for a charitable-remainder trust;
- (q) Compelling compliance with the terms of the trust or other applicable law; and
- (r) Permitting the division or allocation of the aggregate value of community property assets in a manner other than on a pro rata basis.

2. A petition under this section must state the grounds of the petition and the name and address of each interested person, including the Attorney General if the petition relates to a charitable trust, and the relief sought by the petition. Except as otherwise provided in this chapter, the clerk shall set the petition for hearing and the petitioner shall give notice for the period and in the manner provided in NRS 155.010. The court may order such further notice to be given as may be proper.

3. If the court grants any relief to the petitioner, the court may, in its discretion, order any or all of the following additional relief if the court determines that such additional relief is appropriate to redress or avoid an injustice:

- (a) Order a reduction in the trustee's compensation.
- (b) Order the trustee to pay to the petitioner or any other party all reasonable costs incurred by the party to adjudicate the affairs of the trust pursuant to this section, including, without limitation, reasonable attorney's fees. ~~{The}~~ ***Except as otherwise provided in section 193 of this act, the trustee may not be held personally liable for the payment of such costs unless the court determines that the trustee was negligent in the performance of or breached his or her fiduciary duties.***

Sec. 158. Chapter 155 of NRS is hereby amended by adding thereto the provisions set forth as sections 159 to 170, inclusive, of this act.

Sec. 159. *As used in sections 159 to 169, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 160 to 166, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 160. *"Caregiver" means any person who has provided significant assistance or services to or for a person, regardless of whether the person is incompetent, incapacitated or of limited capacity and regardless of whether the person is being compensated for the assistance or services provided.*

Sec. 161. *"Independent attorney" means an attorney, other than a attorney who:*

- 1. Is described in subsection 2 of section 167 of this act; or*
- 2. Has served as an attorney for a person who is described in subsection 2 of section 167 of this act.*

Sec. 162. *"Related to, affiliated with or subordinate to any person" includes, without limitation:*

- 1. The person's spouse;*
- 2. A relative of the person within the third degree of consanguinity or the spouse of such a relative;*
- 3. A co-owner of a business with the person;*
- 4. An employee of a business if the person:*
 - (a) Has an ownership interest in the business; or*
 - (b) Holds a supervisory position with the business;*
- 5. An attorney or employee of a law firm for which the person is or was a client; and*
- 6. Any entity owned or controlled by a person described in subsections 1 to 5, inclusive.*

Sec. 163. *"Spouse" includes a domestic partner as defined in NRS 122A.030.*

Sec. 164. *"Transfer instrument" means the legal document intended to effectuate a transfer effective on or after the transferor's death and includes, without limitation, a will, trust, deed, form designated as payable on death, contract or other beneficiary designation form.*

Sec. 165. *"Transferee" means a devisee, a beneficiary of trust, a grantee of a deed, including a grantee of a deed pursuant to NRS 111.109, and any other person designated in a transfer instrument to receive a nonprobate transfer.*

Sec. 166. *"Transferor" means a testator, settlor, grantor of a deed and a decedent whose interest is transferred pursuant to a nonprobate transfer.*

Sec. 167. *1. To the extent the court finds that a transfer was the product of fraud, duress or undue influence, the transfer is void and each transferee who is found responsible for the fraud, duress or undue influence shall bear the costs of the proceedings, including, without limitation, reasonable attorney's fees.*

2. Except as otherwise provided in section 168 of this act, a transfer is presumed to be void if the transfer is effective on or after a transferor's death and the transfer is to a transferee who is:

- (a) The person who drafted the transfer instrument;*
- (b) A caregiver of the transferor;*

(c) A person who arranged for or paid for the drafting of the transfer instrument; or

(d) A person who is related to, affiliated with or subordinate to any person described in paragraph (a), (b) or (c).

Sec. 168. *The presumption established by section 167 of this act does not apply:*

1. To a transfer of property under a will if the transferee is an heir of the testator whose share in the estate of the testator under the terms of the testator's will is not greater than the share the transferee would be entitled to pursuant to chapter 134 of NRS if the testator had died intestate.

2. Except as otherwise provided in this subsection, if the court determines, upon clear and convincing evidence, that the transfer was not the product of fraud, duress or undue influence. The determination of the court pursuant to this subsection must not be based solely upon the testimony of a person described in subsection 2 of section 167 of this act.

3. If the transfer instrument is reviewed by an independent attorney who:

(a) Counsels the transferor about the nature and consequences of the intended transfer;

(b) Attempts to determine if the intended consequence is the result of fraud, duress or undue influence; and

(c) Signs and delivers to the transferor an original certificate of that review in substantially the following form:

CERTIFICATE OF INDEPENDENT REVIEW

I,..... (attorney's name), have reviewed..... (name of transfer instrument) and have counseled my client,..... (name of client), on the nature and consequences of the transfer or transfers of property to..... (name of transferee) contained in the transfer instrument. I am disassociated from the interest of the transferee to the extent that I am in a position to advise my client independently, impartially and confidentially as to the consequences of the transfer. On the basis of this counsel, I conclude that the transfer or transfers of property in the transfer instrument that otherwise might be invalid pursuant to section 167 of this act are valid because the transfer or transfers are not the product of fraud, duress or undue influence

.....
(Name of Attorney) (Date)

4. To a transferee that is:

(a) A federal, state or local public entity; or

(b) An entity that is recognized as exempt under section 501(c)(3) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3) or 501(c)(19), or a trust holding an interest for such an entity but only to the extent of the interest of the entity or the interest of the trustee of the trust.

5. A transfer of property if the fair market value of the property does not exceed \$3,000.

Sec. 169. *The provisions of sections 167 and 168 of this act do not abrogate or limit any principle or rule of the common law, unless the common law principle or rule is inconsistent with the provisions of sections 167 and 168 of this act.*

Sec. 170. 1. *The court may find that a person is a vexatious litigant if the person files a petition, objection, motion or other pleading which is without merit or intended to harass or annoy the personal representative or a trustee. In determining whether the person is a vexatious litigant, the court may take into consideration whether the person has previously filed pleadings in a proceeding that were without merit or intended to harass or annoy a fiduciary.*

2. If a court finds that a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the person in an amount sufficient to reimburse the estate or trust for all or part of the expenses incurred by the estate or trust to respond to the petition, objection, motion or other pleading and for any other pecuniary losses which are associated with the actions of the vexatious litigant. The court may make an order directing entry of judgment for the amount of such sanctions.

3. The court may deny standing to an interested party to bring a petition or motion if the court finds that:

(a) The subject matter of the petition or motion is unrelated to the interests of the interested party;

(b) The interests of the interested party are minimal as it relates to the subject matter of the petition or motion; or

(c) The interested party is a vexatious litigant pursuant to subsection 1.

4. If a court finds that a person is a vexatious litigant pursuant to subsection 1, that person does not have standing to:

(a) Object to the issuance of letters; or

(b) Request the removal of a personal representative or a trustee.

Sec. 171. NRS 155.030 is hereby amended to read as follows:

155.030 1. At any time after the issuance of letters in the estate of a decedent, an interested person or the person's attorney may serve upon the personal representative or the personal representative's attorney, and file with the clerk of the court wherein administration of the estate is pending, a written request stating that the interested person desires special notice and a copy of any further filings, steps or proceedings in the administration of the estate.

2. The request must state the post office address of the requester or the requester's attorney, and thereafter a brief notice of the filing of any returns, petitions, accounts, reports or other proceedings, together with a copy of the filing, must be addressed to that person or the person's attorney, at his or her stated mailing address, and deposited with the United States Postal Service with the postage thereon prepaid, within 2 days after each is filed, or personal

service of the notice may be made on the person or the person's attorney within the 2 days, and the personal service is equivalent to deposit in the post office, and proof of mailing or of personal service must be filed with the clerk before the hearing of the proceeding.

3. If, upon the hearing, it appears to the satisfaction of the court that the notice has been regularly given, the court shall so find in its order and the order is final and conclusive upon all persons.

4. An interested person in a testamentary trust or its property, or the attorney for that person, may serve upon the trustee or the trustee's attorney, and file with the clerk of the court wherein administration of the trust is pending, a written request stating that he or she desires notice of the filing of accounts and petitions in connection with the trust. The provisions of subsections 2 and 3 apply to such a request.

5. ***An attorney whose only appearance on behalf of an interested person has been the filing of a written request for notice pursuant to subsection 1 may, without further court order:***

(a) Terminate his or her services;

(b) Serve upon the personal representative or the personal representative's attorney an amended written request for notice directing that any further notice be sent to the interested person at his or her last known address; and

(c) File the amended written request for notice with the clerk of the court wherein administration of the estate is pending.

6. ***Any filing of a motion for substitution of counsel or order authorizing withdrawal of counsel of record for an attorney who has filed a written request for notice on behalf of an interested person pursuant to subsection 1 shall be deemed to be an amended written request for notice as described in subsection 5, and any further notice must be sent to the address provided in the motion for substitution of counsel or the order authorizing the withdrawal of counsel, as applicable.***

7. On the filing of an inventory or a inventory or a supplementary inventory, the personal representative shall mail a copy to each person who has requested special notice.

Sec. 172. NRS 155.140 is hereby amended to read as follows:

155.140 1. In a proceeding involving the estate of a decedent or a testamentary trust:

(a) Interests to be affected must be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interest or in another appropriate manner.

(b) An order binding the sole holder or all co-holders of a power of revocation or presently exercisable general power of appointment, including a power of amendment, binds other persons to the extent their interests, as objects, takers in default or otherwise, are subject to the power.

(c) To the extent there is no conflict of interest between them or among persons represented:

(1) An order binding a guardian of the estate binds the person whose estate the guardian controls.

(2) An order binding a guardian of the person binds the ward if no separate guardian of the estate of the ward has been appointed.

(3) An order binding a trustee binds beneficiaries of the trust in a proceeding to probate a will establishing or adding to the trust, to review the acts or accounts of a previous fiduciary, or involving creditors or other third parties.

(4) An order binding a personal representative binds persons interested in the undistributed assets of the estate of a decedent in an action or proceeding by or against the estate.

(d) If there is no conflict of interest and no guardian of the estate has been appointed, a parent may represent his or her minor child.

(e) An unborn or unascertained person who is not otherwise represented is bound by an order to the extent his or her interest is adequately represented by another person having a substantially identical interest in the proceeding.

(f) Notice as prescribed by this title must be given to every interested person or to one who can bind an interested person under ~~{subsection}~~ **paragraph** (b), (c) or (d). Notice may be given both to a person and to another who can bind him or her.

(g) Notice is given to unborn or unascertained persons who are not represented under ~~{subsection}~~ **paragraph** (b), (c) or (d) by giving notice to all known persons whose interest in the proceeding is substantially identical to that of the unborn or unascertained persons.

(h) At any stage of a proceeding, the court may appoint a guardian ad litem or an attorney to represent the interest of a minor, an incapacitated, unborn or unascertained person, or a person whose identity or address is unknown, if the court determines that representation of the interest would otherwise be inadequate. If not precluded by conflict of interest, a guardian ad litem or an attorney may be appointed to represent several persons or interests. The court shall set out its reasons for appointing a guardian ad litem or an attorney as a part of the record of the proceeding.

2. If an attorney has been appointed for minors or other interested persons, the attorney, until another may be appointed, shall represent the person or persons for whom the attorney has been appointed in all subsequent proceedings.

3. *In any proceeding filed pursuant to this title, the court has jurisdiction and authority to fix and adjudicate fees and costs due an attorney from his or her client for services performed by the attorney in connection with the proceeding.*

Sec. 173. NRS 155.170 is hereby amended to read as follows:

155.170 ~~{The testimony of a witness or witnesses in other counties of this State, or in other jurisdictions of the United States, or in foreign countries, may be taken by deposition as provided in the Nevada Rules of Civil Procedure.}~~ ***Unless otherwise ordered by the court, upon the filing of***

a proceeding pursuant to this title and service of the notice of hearing to other interested persons, an interested person who has appeared in the proceeding and given notice of his or her appearance to other interested persons:

1. May obtain discovery, perpetuate testimony or conduct examinations in any manner authorized by law or by the Nevada Rules of Civil Procedure relevant to such proceeding; and

2. Is not required to satisfy any rule requiring the initial disclosure of experts, attendance at an early case conference or the filing of a report on an early case conference as a prerequisite to commencing an action described in subsection 1.

Sec. 174. NRS 159.065 is hereby amended to read as follows:

159.065 1. Except as otherwise provided by law, every guardian shall, before entering upon his or her duties as guardian, execute and file in the guardianship proceeding a bond, with sufficient surety or sureties, in such amount as the court determines necessary for the protection of the ward and the estate of the ward, and conditioned upon the faithful discharge by the guardian of his or her authority and duties according to law. The bond must be approved by the clerk. Sureties must be jointly and severally liable with the guardian and with each other.

2. If a banking corporation, as defined in NRS 657.016, doing business in this state, is appointed guardian of the estate of a ward, no bond is required of the guardian, unless specifically required by the court.

3. Joint guardians may unite in a bond to the ward or wards, or each may give a separate bond.

4. If there are no assets of the ward, no bond is required of the guardian.

5. If a person ~~is appointed in a will~~ ***has been nominated*** to be guardian ***in a will, power of attorney or other written instrument that has been acknowledged before two disinterested witnesses or acknowledged before a notary public*** and the will, ***power of attorney or other written instrument*** provides that no bond is to be required of the guardian, the court may direct letters of guardianship to issue to the guardian after the guardian:

(a) Takes and subscribes the oath of office; and

(b) Files the appropriate documents which contain the full legal name and address of the guardian.

6. In lieu of executing and filing a bond, the guardian may request that access to certain assets be blocked. The court may grant the request and order letters of guardianship to issue to the guardian if sufficient evidence is filed with the court to establish that such assets are being held in a manner that prevents the guardian from accessing the assets without a specific court order.

Sec. 175. Chapter 162 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *An attorney who represents a fiduciary does not, solely as a result of such attorney-client relationship, assume a corresponding duty of care or other fiduciary duty to a principal.*

2. *Nothing in this section limits a principal, fiduciary or successor fiduciary's ability to assert appropriate claims against the attorney resulting from the negligent or intentional acts of the attorney.*

3. *As used in this section:*

(a) *"Fiduciary" has the meaning ascribed to it in NRS 162.020.*

(b) *"Principal" has the meaning ascribed to it in NRS 162.020.*

Sec. 176. Chapter 163 of NRS is hereby amended by adding thereto a new section to read as follows:

Except to the extent that it violates public policy, a settlor may:

1. *Make a devise conditional upon a beneficiary's action or failure to take action or upon the occurrence or nonoccurrence of one or more specified events; and*

2. *Specify the conditions or actions which would disqualify a person from serving or which would constitute cause for removal of a person who is serving in any capacity under the trust, including, without limitation, as a trustee, trust protector or trust adviser.*

Sec. 177. NRS 163.00195 is hereby amended to read as follows:

163.00195 1. Except as otherwise provided in subsections 3 and 4, a no-contest clause in a trust must be enforced by the court.

2. A no-contest clause must be construed to carry out the settlor's intent. Except to the extent the no-contest clause in the trust is vague or ambiguous, extrinsic evidence is not admissible to establish the settlor's intent concerning the no-contest clause. The provisions of this subsection do not prohibit such evidence from being admitted for any other purpose authorized by law. ***Except as otherwise provided in subsections 3 and 4, a beneficiary's share may be reduced or eliminated under a no-contest clause based upon conduct that is set forth by the settlor in the trust. Such conduct may include, without limitation:***

(a) *Conduct other than formal court action; and*

(b) *Conduct which is unrelated to the trust itself, including, without limitation:*

(1) *The commencement of civil litigation against the settlor's probate estate or family members;*

(2) *Interference with the administration of another trust or a business entity;*

(3) *Efforts to frustrate the intent of the settlor's power of attorney; and*

(4) *Efforts to frustrate the designation of beneficiaries related to a nonprobate transfer by the settlor.*

3. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary seeks only to:

(a) Enforce the terms of the trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument;

(b) Enforce the beneficiary's legal rights related to the trust , ***any document referenced in or affected by the trust***, or any trust-related instrument; or

(c) Obtain a court ruling with respect to the construction or legal effect of the trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument.

4. Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action seeking to invalidate a trust , ***any document referenced in or affected by the trust***, or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause that would have led a reasonable person, properly informed and advised, to conclude that ~~{there was a substantial likelihood that}~~ the trust , ***any document referenced in or affected by the trust***, or other trust-related instrument ~~{was}~~ is invalid.

5. As used in this section:

(a) "No-contest clause" means one or more provisions in a trust that express a directive to reduce or eliminate the share allocated to a beneficiary or to reduce or eliminate the distributions to be made to a beneficiary if the beneficiary takes action to frustrate or defeat the settlor's intent as expressed in the trust or in a trust-related instrument.

(b) "Trust" means the original trust instrument and each amendment made pursuant to the terms of the original trust instrument.

(c) "Trust-related instrument" means any document purporting to transfer property to or from the trust or any document made pursuant to the terms of the trust purporting to direct the distribution of trust assets or to affect the management of trust assets, including, without limitation, documents that attempt to exercise a power of appointment.

Sec. 178. NRS 163.004 is hereby amended to read as follows:

163.004 1. A trust may be created for any purpose that is not illegal or against public policy.

2. ~~{A trust created for an indefinite or general purpose is not invalid for that reason if it can be determined with reasonable certainty that a particular use of the trust property is within that purpose.}~~ ***Except as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:***

(a) ***The grounds for removing a fiduciary;***

(b) ***The circumstances, if any, in which the fiduciary must diversify investments; and***

(c) A fiduciary's powers, duties, standards of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.

3. *Nothing in this section shall be construed to:*

(a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or

(b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.

4. *The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.*

Sec. 179. NRS 163.556 is hereby amended to read as follows:

163.556 1. Unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust for the benefit of one or more of those beneficiaries.

2. Notwithstanding subsection 1, a trustee may not appoint property of the original trust to a second trust if:

(a) The second trust includes a beneficiary who is not a beneficiary of the original trust. For purposes of this paragraph, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

(b) Appointing the property will reduce any current fixed income interest, annuity interest or unitrust interest of a beneficiary of the original trust. As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(c) A contribution made to the original trust qualified for a marital or charitable deduction for federal or state income, gift or estate taxes or qualified for a gift tax exclusion for federal or state tax purposes and the terms of the second trust include a provision which if included in the original trust would prevent the original trust from qualifying for the tax deduction or exclusion.

(d) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment ~~†~~, ***unless after the exercise of such appointment, the beneficiary of the original trust's power of withdrawal is unchanged with respect to the trust property.***

(e) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(f) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the

property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(g) Under the second trust:

(1) Discretionary distributions may be made by the trustee to a beneficiary or group of beneficiaries of the original trust;

(2) Distributions are not limited by an ascertainable standard; and

(3) A beneficiary or group of beneficiaries has the power to remove and replace the trustee of the second trust with a beneficiary of the second trust or with a trustee that is related to or subordinate to a beneficiary of the second trust.

(h) A contribution made to the original trust qualified for a gift tax exclusion as described in section 2503(b) of the Internal Revenue Code, 26 U.S.C. § 2503(b), by reason of the application of section 2503(c) of the Internal Revenue Code, 26 U.S.C. § 2503(c), unless the second trust provides that the beneficiary's remainder interest must vest not later than the date upon which such interest would have vested under the terms of the original trust.

3. Notwithstanding the provisions of subsection 1, a trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself or herself;

(2) The trustee's discretion to make distributions to himself or herself is limited by an ascertainable standard ~~[-]~~, ***and under the terms of the second trust, the trustee's discretion to make distributions to himself or herself is not limited by the same ascertainable standard;*** or

(3) The trustee's discretion to make distributions to himself or herself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself or herself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

4. ***The provisions of subsection 3 do not prohibit a trustee who is not a beneficiary of the original trust from exercising the authority to appoint***

property of the original trust to a second trust pursuant to the provisions of subsection 1.

5. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

~~{5. Notwithstanding the provisions of subsection 2 or 3, the}~~

6. The trust instrument of the second trust may:

(a) Grant a power of appointment to one or more of the beneficiaries of the second trust who are proper objects of the exercise of the power in the original trust. The power of appointment includes, without limitation, the power to appoint trust property to the holder of the power, the holder's creditors, the holder's estate, the creditors of the holder's estate or any other person.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

~~{6.}~~ 7. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

~~{7.}~~ 8. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

~~{8.}~~ 9. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

~~{9.}~~ 10. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

~~{10.}~~ 11. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

~~{11.}~~ 12. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

~~{12.}~~ 13. A trustee exercising any power granted pursuant to this section may designate himself or herself or any other person permitted to act as a trustee as the trustee of the second trust.

~~{13.}~~ 14. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also

exercise the powers granted pursuant to this section with respect to the second trust.

~~{14.}~~ 15. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code , 26 U.S.C. § 2041(b)(1)(A) or 2514(c)(1), and any regulations of the United States Treasury promulgated thereunder.

Sec. 179.5. ~~{Chapter 164 of NRS is hereby amended by adding thereto the provisions set forth as sections 180 and 180.5 of this act.}~~ **(Deleted by amendment.)**

Sec. 180. **Chapter 164 of NRS is hereby amended by adding thereto a new section to read as follows:**

The provisions of section 47 of this act concerning the revocation of certain transfers based upon divorce or annulment apply to transfers of property made pursuant to a trust.

Sec. 180.5. ~~{The notice that a trustee is required to provide pursuant to subsection 3 of NRS [164.900] may be in the following form:}~~

NOTICE TO BENEFICIARY

~~You are hereby notified, as required by subsection 3 of NRS [164.900], that:~~

~~—1. The undersigned is the trustee of the trust that is designated as.....(specify name and date or another type of identification of the trust).~~

~~—2. You are being given this notice because, under the terms of the trust instrument, the trustee is authorized or required to make distributions of income to you or for your benefit. The above-named trust became irrevocable before October 1, 2011, and the trust instrument does not contain specific direction as to the amount of income that is to be applied toward standard fiduciary compensation and toward expenses for accountings, judicial proceedings or certain other matters. For the purposes of this notice, "standard fiduciary compensation" means the regular compensation of the trustee and any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal.~~

~~—3. Under the Uniform Principal and Income Act (1997), as adopted in Nevada, one-half of the standard fiduciary compensation and the expenses described above are generally paid from trust income and the balance of the standard fiduciary compensation and expenses are generally paid from the trust's principal.~~

~~—4. Subsection 2 of NRS [164.900] places a limit on the amount of income that can be applied toward standard fiduciary compensation and the expenses described above, but that limit does not apply to this trust unless the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote,~~

~~make an election to have the limitation apply as authorized under subsection 7 of NRS [164.900.]~~

~~5. If such an election is made, it may or may not increase the income that is available for distribution, but such an election will not reduce distributable income.~~

~~6. If you want to have the limitation authorized under subsection 7 of NRS [164.900] apply to this trust, you must notify the trustee by signing at the bottom of this form and returning the form to the trustee. Failure to sign this form and return it to the trustee will be considered a negative vote with regard to applying the limitation described in subsection 2 of NRS [164.900] to this trust.~~

.....
 (Signature of Trustee) _____ (Date) _____

 (Address of Trustee)

~~If you would like to make the election under subsection 7 of NRS [164.900.] as explained above, please sign below and send the signed copy by certified or registered mail to the trustee or personally deliver the signed copy to the trustee.~~

NOTICE OF ELECTION

UNDER SUBSECTION 7 OF NRS [164.900]

~~I, the undersigned beneficiary, hereby make the election authorized under subsection 7 of NRS [164.900] to limit the amount of income that can be paid toward the regular compensation of the trustee and of any person providing advisory or custodial services to the trustee whose compensation is based on the value of the trust's principal or a portion of the trust's principal and toward expenses for accountings, judicial proceedings or certain other matters. I understand that the election will only be effective after the adult beneficiaries to whom or for whose benefit net income of the trust presently is or may be payable, by majority vote, make this election.~~

 (Signature of Beneficiary) _____ (Date) ~~(Deleted by amendment.)~~

Sec. 181. NRS 164.021 is hereby amended to read as follows:

164.021 1. When a revocable trust becomes irrevocable because of the death of a settlor or by the express terms of the trust, the trustee may, {within 90 days} after the trust becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any heir of the settlor or to any other interested person.

2. The notice provided by the trustee must contain:

(a) The identity of the settlor of the trust and the date of execution of the trust instrument;

(b) The name, mailing address and telephone number of any trustee of the trust;

(c) Any provision of the trust instrument which pertains to the beneficiary or notice that the heir or interested person is not a beneficiary under the trust;

(d) Any information required to be included in the notice expressly provided by the trust instrument; and

(e) A statement set forth in a separate paragraph, in 12-point boldface type or an equivalent type which states: "You may not bring an action to contest the trust more than 120 days from the date this notice is served upon you."

3. The trustee shall serve the notice pursuant to the provisions of NRS 155.010.

4. No person upon whom notice is served pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice is served upon the person, unless the person proves that he or she did not receive actual notice.

Sec. 181.5. ~~NRS 164.780 is hereby amended to read as follows:~~

~~164.780 NRS 164.700, subsection 2 of NRS 164.720 and NRS 164.780 to 164.925, inclusive, and section 180.5 of this act, may be cited as the Uniform Principal and Income Act (1997). (Deleted by amendment.)~~

Sec. 182. NRS 164.900 is hereby amended to read as follows:

164.900 1. A

~~{1. Except as otherwise provided in the trust instrument or in an order of the court, a}~~ trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

~~{1-} (a) Except as otherwise provided in subsection 2 or otherwise ordered by the court, one-half of the~~

~~{- (a) One-half of:~~

~~— (1) Except as otherwise provided in subsection 2:~~

~~— (1) The}~~ regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee ;

~~{2-} (b) Except as otherwise ordered by the court, one-half of all whose compensation is based on the value of the trust's principal or a portion thereof; and~~

~~— (1) All}~~ expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

~~{3-} (c) All the other ordinary and~~

~~— (2) All other}~~ expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, ~~[not specifically mentioned in subparagraph (1) or in paragraph (b).]~~ including interest, ordinary repairs , ~~[on trust property,]~~ regularly recurring taxes assessed against principal , and ~~[recurring premiums on insurance covering the loss of a principal asset.]~~

~~— (b) All expenses related to the distribution of income, including interest, the}~~ expenses of a proceeding or other matter that concerns primarily the income interest ; and

~~[4.] (d) All ~~and the~~ recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the ~~family~~ asset.~~

~~[2. The amount payable from income for compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1 must not exceed the applicable income percentage of income for the accounting period.~~

~~— 3. The trustee of a trust that became irrevocable before October 1, 2011, and whose trust instrument does not otherwise address the allocation of compensation and other expenses specifically mentioned in subparagraph (1) of paragraph (a) of subsection 1, shall notify each adult beneficiary who, at the time the notice is provided, is a person to whom or for whose benefit net income of the trust presently is or may be payable, of the right to elect to apply the limitation set forth in subsection 2 to the trust.~~

~~— 4. Such an election:~~

~~— (a) Must be evidenced by a written election to apply the limitation set forth in subsection 2 to the trust which is signed by a majority of the adult beneficiaries described in subsection 3; and~~

~~— (b) May be applied to the disbursement of income only after a majority of the adult beneficiaries described in subsection 3 have so elected to apply the limitation set forth in subsection 2 to the trust.~~

~~— 5. For the purposes of determining a majority pursuant to subsection 4, each adult beneficiary described in subsection 3 has:~~

~~— (a) One vote if, pursuant to the terms of the trust instrument, the trustee has the discretion to make distributions to two or more such beneficiaries in equal or unequal amounts; and~~

~~— (b) One vote for each percentage of income to which that beneficiary is entitled if, pursuant to the terms of the trust instrument, the trustee is required to pay a specific percentage of the net income to two or more such beneficiaries.~~

~~— 6. Except as otherwise provided in subsection 7, the trustee shall provide the notice required pursuant to this section to each adult beneficiary described in subsection 3 at least three times, not less than 30 days apart. The notice must:~~

~~— (a) Be given by personal delivery or by certified or registered mail to the beneficiary's last known address;~~

~~— (b) Be in at least 12-point type or font except that the provision in which the beneficiary makes the election to apply the limitation set forth in subsection 2 to the trust must be in at least 16-point bold type or font;~~

~~— (c) Describe the availability of such an election;~~

~~— (d) Describe the effect of such an election on the distribution of income from the trust; and~~

~~— (e) Inform the beneficiary of the manner in which such an election may be made.~~

~~— 7. An adult beneficiary described in subsection 3 may:~~

~~—(a) By written notice given to the trustee by personal delivery or by certified or registered mail or as otherwise directed by the trustee, consent to a different form of notice or waive the right to receive notice pursuant to this section; and~~

~~—(b) Elect to apply the limitation set forth in subsection 2 to the trust at any time after the date on which the first notice is personally delivered or mailed to any such beneficiary.~~

~~—8. The provisions of subsection 2:~~

~~—(a) Apply to a trust that becomes irrevocable on or after October 1, 2011.~~

~~—(b) Do not apply to a trust that became irrevocable before October 1, 2011, unless a majority of adult beneficiaries described in subsection 3 elect to apply the limitation in the manner provided in subsection 4.~~

~~—9. As used in this section, "applicable income percentage" means:~~

~~—(a) For an accounting period that includes a calendar year, the interest rate fixed on January 1 of that year pursuant to subsection 1 of NRS 99.040, plus 2 percentage points; and~~

~~—(b) For an accounting period that includes a portion of a calendar year, the income percentage described in paragraph (a) prorated for that portion of the calendar year included in the accounting period.}~~

2. If the amount charged to the income of an irrevocable trust pursuant to paragraph (a) of subsection 1 exceeds 15 percent of the income of the trust in the accounting period, the trustee shall exercise the authority in NRS 164.795 to equitably reduce the amount charged against income for that accounting period unless:

(a) The trustee, after taking into consideration the terms of the trust instrument, reasonably concludes that the reduction is not in the best interest of the beneficiaries of the trust;

(b) The reduction of the amount charged to income would violate the express terms of the trust instrument other than a general directive to comply with the Uniform Principal and Income Act (1997) or with a general provision that contains language similar to that found in paragraph (a) of subsection 1;

(c) The trustee is authorized under the terms of the trust instrument to distribute trust principal to each income beneficiary; or

(d) The trustee gives notice in compliance with NRS 164.725 of the intent not to make the adjustment and no current income beneficiary objects.

Sec. 183. NRS 164.905 is hereby amended to read as follows:

164.905 1. A trustee shall make the following disbursements from principal:

(a) The remaining portion of the disbursements described in {subsections} paragraph (a) of subsection 1 {and 2} of NRS 164.900;

(b) All the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;

(c) Payments on the principal of a trust debt;

(d) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(e) Premiums paid on a policy of insurance not described in paragraph (d) of subsection [4] 1 of NRS 164.900 of which the trust is the owner and beneficiary;

(f) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and

(g) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

Sec. 184. Chapter 165 of NRS is hereby amended by adding thereto the provisions set forth as sections 185 to 198, inclusive, of this act.

Sec. 185. *As used in NRS 165.135 and sections 185 to 198, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 186 to 191, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 186. *"Accounting period" means the period for which the trustee is accounting, and except as otherwise provided in this section, commencing with the first day following the previous accounting period and ending on the date specified by the trustee or on the date specified by the court if the account is ordered by the court. If the account is an initial account, the account commences on the day the trustee became the trustee.*

Sec. 187. *"Broad power of appointment" means a power of appointment held by a person, commonly referred to as a power holder, that can be exercised in favor of:*

1. *The power holder, without any restriction or limitation; or*
2. *Any person other than one or more of the following:*
 - (a) *The power holder;*
 - (b) *The power holder's estate;*
 - (c) *The power holder's creditors; or*
 - (d) *The creditors of the power holder's estate.*

Sec. 188. *"Current beneficiary" means a distribution beneficiary to whom or for whose benefit the trustee is authorized or required to make distributions of income or principal at any time during the accounting period.*

Sec. 189. *"Distribution beneficiary" has the meaning ascribed to it in NRS 163.415.*

Sec. 190. *"Remainder beneficiary" means a beneficiary who will become a current beneficiary upon the death of an existing current beneficiary or upon the occurrence of some other event that may occur during the beneficiary's lifetime, regardless of whether the beneficiary's share is subject to elimination under a power of appointment other than a broad power of appointment.*

Sec. 191. *"Remote beneficiary" means a beneficiary who may become a current beneficiary upon the death of two or more persons or upon the occurrence of some other event that cannot possibly occur during the beneficiary's lifetime.*

Sec. 192. 1. *The following provisions apply to the extent that the trust instrument does not expressly provide otherwise:*

(a) *The trustee shall provide an account to each current beneficiary and to each remainder beneficiary upon request but is not required to provide an account to a remote beneficiary;*

(b) *A trustee is not required to provide an account more than once in any calendar year unless ordered by a court to do so upon good cause shown;*

(c) *Each account provided to a beneficiary must comply with the provisions of subsection 3 or 4 of NRS 165.135;*

(d) *In addition to other methods of providing an account to a beneficiary, a trustee may provide an account to a beneficiary by electronic mail or through a secure website on the Internet;*

(e) *While a trust is revocable, the trustee is not required to provide an account to any person other than a person having the right of revocation except that a trustee of such a trust shall provide an account if:*

(1) *A court-appointed guardian of the trust estate requests an account on behalf of the settlor; or*

(2) *The court, in considering a petition filed under NRS 164.015, determines that the settlor is incompetent or is susceptible to undue influence and directs the trustee to provide an account, specifying the nature and extent of the account to be provided and the person or persons who are entitled to receive the account;*

(f) *While an irrevocable trust in its entirety is subject to a broad power of appointment, the trustee is not required to provide an account for that trust to any person other than the power holder;*

(g) *The cost of an account must be charged as provided in the Uniform Principal and Income Act (1997) as set forth in chapter 164 of NRS;*

(h) An account shall be deemed approved by a beneficiary who received a copy of the account if no written objection thereto is given to the trustee within 120 days after the date on which the trustee provided the account to that beneficiary;

(i) An account shall be deemed approved by a minor, unborn or unknown beneficiary if it is deemed approved as to an adult beneficiary who has a similar interest;

(j) A trustee is not required to provide to a beneficiary information that does not affect the beneficiary's interest in the trust, and an adult beneficiary may, by a written declaration that is signed by that beneficiary, waive the right to receive any information otherwise required to be provided pursuant to the provisions of subsection 3 or 4 of NRS 165.135; and

(k) For the purposes of paragraph (h), a beneficiary shall be deemed to have received a copy of an account provided by the trustee to the beneficiary by electronic mail or through a secure website on the Internet if the trustee:

(1) Sent the beneficiary an electronic mail in a manner that complies with subsection 1 of NRS 719.320 and the beneficiary received the electronic mail in a manner that complies with subsection 2 of NRS 719.320; and

(2) Attached the account to the electronic mail as an electronic record or included in the electronic mail a notice to the beneficiary indicating the availability of the account on the secure website.

2. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 41.715.

(b) "Electronic record" has the meaning ascribed to it in NRS 132.117.

Sec. 193. Notwithstanding any provision to the contrary in the trust instrument:

1. If the amount distributable to a current beneficiary is affected by the amount of administrative expenses or is affected by the allocation of receipts and disbursements to income or principal, the trustee shall, upon request, provide an account annually to the current beneficiary. An account provided to a current beneficiary pursuant to this subsection must comply with the provisions of subsection 3 or 4 of NRS 165.135, except to the extent that the current beneficiary agrees otherwise in writing.

2. Except as otherwise provided in this subsection, upon request, an account must be provided annually to each remainder beneficiary of an irrevocable trust. A beneficiary who has been eliminated by the exercise of a power of appointment has no right to request or receive an account pursuant to this subsection.

3. A trustee, at the expense of the trust, may provide:

(a) An unrequested account to one or more beneficiaries at any time; and

(b) More information to beneficiaries, including, without limitation, remote beneficiaries, than is required under the trust instrument or by law.

4. Unless the court determines that there is clear and convincing evidence that the trustee was acting in good faith, a trustee who fails to provide an account when required pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act is personally liable to each beneficiary who requested the account in writing for all costs reasonably incurred by each such beneficiary to enforce NRS 165.135 and sections 185 to 198, inclusive, of this act, including, without limitation, reasonable attorney's fees and court costs. The trustee may not expend trust funds therefor.

Sec. 194. A beneficiary may send a written demand for an account pursuant to NRS 165.135 and sections 185 to 198, inclusive, of this act to the trustee in accordance with the following procedure:

1. The demand on the trustee must be sent to the trustee or to the trustee's attorney of record and the demand must include, without limitation:

(a) The identity of the demanding beneficiary, including the beneficiary's mailing address or the address of the beneficiary's attorney;

(b) The accounting period for which an account is demanded; and

(c) The nature and extent of the account demanded and the legal basis for the demand.

2. Within 14 days after the trustee has received a demand for an account from a beneficiary, the trustee shall notify the demanding beneficiary of the trustee's acceptance or rejection of the demand. The trustee shall:

(a) Provide an account within 60 days after receipt of the demand, unless that time is modified by consent of the beneficiary or by order of the court if the trustee accepts the beneficiary's demand for an account; or

(b) Set forth the grounds for rejecting the beneficiary's demand for an account in the notice of rejection and inform the beneficiary that the beneficiary has 60 days in which to petition the court to review the rejection if the trustee rejects the beneficiary's demand for an account.

3. The demand by the beneficiary and the notice of acceptance or rejection of the demand by the trustee must be delivered by first-class mail, personal delivery or commercial carrier. If delivery of the demand or of the notice is in dispute, proof of delivery may be established by a return receipt or other proof of delivery provided by the person making the delivery or by affidavit of the person who arranged for the delivery setting forth the delivery address, the method of delivery arranged for and the actions taken by that person to arrange for the delivery.

4. If the trustee fails to accept or reject a beneficiary's demand for an account as required by subsection 2, the beneficiary's demand shall be deemed rejected.

Sec. 195. 1. A beneficiary whose demand for an account in compliance with section 194 of this act is rejected or deemed rejected must file a petition seeking the court's review of the trustee's rejection within 60 days after the rejection date as described in subsection 2. A petition filed pursuant to this section may also seek additional relief pursuant to NRS 153.031.

2. If the trustee rejects the beneficiary's demand for an account, the rejection date is the date on which the trustee provides the beneficiary with a notice of rejection. If the trustee fails to accept or reject the beneficiary's demand, the rejection date is deemed to be 14 days after the beneficiary gave the trustee the demand.

3. If the court has not previously accepted jurisdiction over the trust, the beneficiary must petition the court to confirm the appointment of the trustee pursuant to NRS 164.010. Such a petition may be combined with the petition for the court's review of the trustee's rejection.

4. The clerk shall set the petition for hearing, and the petitioner shall give notice to all interested persons for the period and in the manner provided in NRS 155.010. The notice must state the filing of the petition, the object and the time and place of the hearing.

5. If one or more other beneficiaries with interests substantially similar to the petitioner request to join the petition at or before the hearing, the court shall consider the other beneficiaries to be additional petitioners without requiring those beneficiaries to file separate petitions or to give separate notices of the hearing.

6. At the hearing, as to each petitioner, the court may enter an order:

(a) Compelling the trustee to provide an account to the petitioner and specifying the nature and extent of the account to be provided;

(b) Declaring that the petitioner is not entitled to an account and setting forth the reason or reasons the petitioner is not so entitled; or

(c) Compelling the trustee to provide an account to the petitioner as described in paragraph (a) and authorizing an independent review of the account using the procedure set forth in section 196 of this act.

7. Except as otherwise provided in subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act, each petitioner shall pay his or her own expenses, including, without limitation, attorney's fees, that arise in conjunction with filing a petition pursuant to this section.

Sec. 196. If, while considering a petition filed pursuant to section 195 of this act, the court finds that the beneficiary is entitled to an account pursuant to this section and that the trust instrument authorizes or directs the trustee not to provide the account with the disclosures required by this section, the court shall, upon the beneficiary's request, compel the trustee to confidentially provide an account in accordance with the following procedure:

1. If the beneficiary has not been previously provided with a copy of the trust instrument, the court shall direct the trustee to provide the court and

each reviewer selected pursuant to subsection 2 with a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.

2. The court shall direct the account to be provided confidentially to the court and to one or more reviewers selected by the beneficiary. The court may direct that the account be filed with the court clerk under seal or delivered to the court for in camera review. The account provided must contain the information required by this section without regard to any trust provision restricting the information to be provided to the requesting beneficiary.

3. A reviewer must be either a certified public accountant or an attorney.

4. Subject to the provisions of paragraph (b) of subsection 5, the beneficiary requesting the account must pay for the services of each reviewer. The expense of preparing the account must be paid as an expense of the trust.

5. Each reviewer must agree that:

(a) The account provided must be reviewed confidentially and must not be provided to the beneficiary except as otherwise provided in paragraph (b) or in an order of the court; and

(b) The reviewer's duty is to review the account and to prepare a written report, which must be filed with the court clerk under seal or submitted to the court for in camera review, informing the court if there is anything that would indicate that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts. At the same time a copy of the reviewer's report is provided to the court, a copy of each reviewer's report must be delivered to the trustee or to the trustee's attorney of record.

6. The trustee may submit to the court and to each reviewer an objection to the report of a reviewer within 10 days after the trustee received the reviewer's report. The trustee shall submit the objections to the court and to each reviewer in the same manner as the trustee provided the account. The court may consider each reviewer's report and the objections of the trustee with or without a hearing. If the court, after considering the report of any reviewer and any objection submitted by the trustee, finds that the trust, as it affects the beneficiary's interest, has not been or may not have been properly administered or accounted for in accordance with applicable law, the trust instrument and generally accepted accounting principles applicable to trusts, in addition to any other relief granted by the court pursuant to NRS 153.031 or section 195 of this act, the court shall enter an order granting the relief necessary to protect the beneficiary's interests or to allow the beneficiary to enforce his or her rights under the trust.

7. *An order granting relief described in subsection 6 may include one or more of the following:*

(a) *A directive to the trustee to provide the beneficiary an account which complies with the provisions of subsection 3 or 4 of NRS 165.135, together with such additional information as the beneficiary may require to properly enforce his or her rights under the trust;*

(b) *A directive to the trustee to provide further annual accounts required under this section without further court order;*

(c) *A directive to the trustee to provide the court and each reviewer a more complete account or such additional information as the court deems necessary to determine if the trust is being properly administered in compliance with the trust instrument and applicable law;*

(d) *A directive to the trustee to take action to remedy or mitigate the effects of any improper administration of the trust;*

(e) *A declaration relieving each reviewer from any further obligation of confidentiality; and*

(f) *Any such additional relief as the court deems proper to ensure the trustee's compliance with the trust instrument and applicable law and to allow enforcement of the beneficiary's rights.*

8. *If the beneficiary is granted any relief by the court on the basis that the trust was not properly administered or accounted for, the provisions of subsection 3 of NRS 153.031 and subsection 4 of section 193 of this act apply with regard to the reimbursement of costs incurred by the beneficiary.*

Sec. 197. 1. *Upon request by a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act, a trustee shall provide a copy of the trust instrument to that beneficiary except as expressly provided otherwise in the trust instrument.*

2. *Notwithstanding the provisions of subsection 1 or any provision to the contrary in the trust instrument, the court may direct the trustee to provide a beneficiary who is entitled to receive an account pursuant to the terms of NRS 165.135 and sections 185 to 198, inclusive, of this act a copy of the trust instrument, or such portions as the court deems to be pertinent to the determination of the adequacy of the trustee's account and to the enforcement of the beneficiary's rights under the trust.*

3. *Except as otherwise provided in section 196 of this act or by order of the court for good cause shown, the trustee must not be compelled to provide a copy of the trust instrument to a person who is not a beneficiary of the trust or a person who is not entitled to an account of the trust pursuant to the provisions of NRS 165.135 and sections 185 to 198, inclusive, of this act.*

Sec. 198. *Except as otherwise provided in a trust instrument, a person holding a power of appointment pursuant to a nontestamentary trust does*

not owe a fiduciary duty to any person and is not liable to any person with respect to the exercise or nonexercise of the power of appointment.

Sec. 199. NRS 165.135 is hereby amended to read as follows:

165.135 **1.** The trustee of a nontestamentary trust shall ~~{, not less often than annually,}~~ furnish to each beneficiary ~~{who is currently entitled to receive income pursuant to the terms of the trust, to each residuary beneficiary who is then living, to each specific beneficiary then living who has not received complete distribution, and to any surety on the bond of the trustee of the trust}~~ an account ~~{showing:~~

- ~~— 1. The period which the account covers;~~
- ~~— 2. In a separate schedule:~~
 - ~~— (a) Additions to trust principal during the accounting period with the dates and sources of acquisition;~~
 - ~~— (b) Investments collected, sold or charged off during the accounting period;~~
 - ~~— (c) Investments made during the accounting period, with the date, source and cost of each;~~
 - ~~— (d) Deductions from principal during the accounting period, with the date and purpose of each; and~~
 - ~~— (e) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof;~~
- ~~— 3. In a separate schedule:~~
 - ~~— (a) Trust income on hand at the beginning of the accounting period, and in what form held;~~
 - ~~— (b) Trust income received during the accounting period, when and from what source;~~
 - ~~— (c) Trust income paid out during the accounting period, when, to whom and for what purpose; and~~
 - ~~— (d) Trust income on hand at the end of the accounting period and how invested;~~
- ~~— 4. A statement of any unpaid claims with the reason for failure to pay them; and~~
- ~~— 5. A brief summary of the account.}~~ ***in accordance with the provisions of this section and sections 185 to 198, inclusive, of this act.***

2. At a minimum, the trustee shall furnish an account to each beneficiary in accordance with the terms and conditions stated in the trust instrument. The cost of each account must be allocated to income and principal as provided in the trust instrument.

3. Except as otherwise provided in this section, an account provided by a trustee to a beneficiary who is entitled to an account pursuant to this section and sections 185 to 198, inclusive, of this act must include:

- (a) A statement indicating the accounting period;***
- (b) With respect to the trust principal:***

(1) The trust principal held at the beginning of the accounting period, and in what form held, and the approximate market value thereof at the beginning of the accounting period;

(2) Additions to the trust principal during the accounting period, with the dates and sources of acquisition;

(3) Investments collected, sold or charged off during the accounting period;

(4) Investments made during the accounting period, with the date, source and cost of each investment;

(5) Any deductions from the trust principal during the accounting period, with the date and purpose of each deduction; and

(6) The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof at that time;

(c) With respect to trust income, the trust income:

(1) On hand at the beginning of the accounting period, and in what form held;

(2) Received during the accounting period, when and from what source;

(3) Paid out during the accounting period, when, to whom and for what purpose; and

(4) On hand at the end of the accounting period and how invested;

(d) A statement of unpaid claims with the reason for failure to pay them; and

(e) A brief summary of the account.

4. In lieu of the information required to be provided by a trustee to a beneficiary pursuant to subsection 3, a trustee may provide to such a beneficiary a statement indicating the accounting period and a financial report of the trust which is prepared by a certified public accountant and which summarizes the information required by paragraphs (b) to (e), inclusive, of subsection 3. Upon request, the trustee shall make all the information used in the preparation of the financial report available to each beneficiary who was provided a copy of the financial report.

5. For the purposes of NRS 165.135 and sections 185 to 198, inclusive, of this act, the information provided by a trustee to a beneficiary pursuant to subsection 4 shall be deemed to be an account.

Sec. 200. NRS 165.160 is hereby amended to read as follows:

165.160 1. Except [for the provisions of NRS 165.135, provisions of this chapter shall have no application to nontestamentary trusts unless the settlor shall expressly so declare in the instrument creating the trust. But no expression of intent by any settlor shall affect the jurisdiction of the courts of this state over inventories and accounts of trustees, insofar as such jurisdiction does not depend upon the provisions of this chapter.] as otherwise provided by a specific statute, federal law or common law, the terms of a trust instrument may expand, restrict, eliminate or otherwise

vary the rights and interests of beneficiaries in any manner that is not illegal or against public policy, including, without limitation, specifying:

- (a) The right to be informed of the beneficiary's interest for a period of time;*
- (b) The grounds for removing a fiduciary;*
- (c) The circumstances, if any, in which the fiduciary must diversify investments; and*
- (d) A fiduciary's powers, duties, standard of care, rights of indemnification and liability to persons whose interests arise from the trust instrument.*

2. Nothing in this section shall be construed to:

- (a) Authorize the exculpation or indemnification of a fiduciary for the fiduciary's own willful misconduct or gross negligence; or*
- (b) Preclude a court of competent jurisdiction from removing a fiduciary because of the fiduciary's willful misconduct or gross negligence.*

3. The rule that statutes in derogation of the common law are to be strictly construed has no application to this section. This section must be liberally construed to give maximum effect to the principle of freedom of disposition and to the enforceability of trust instruments.

Sec. 201. Chapter 166 of NRS is hereby amended by adding thereto the provisions set forth as sections 202 and 203 of this act.

Sec. 202. 1. *A trust administered under the laws of another state, or under the laws of a foreign jurisdiction, is a spendthrift trust pursuant to this chapter if:*

- (a) The trustee of the trust complies with any requirements set forth in the trust instrument and any requirements of the laws of the state or jurisdiction from which the trust is being transferred;*
- (b) The trustee or other person having the power to transfer the domicile of the trust declares such intent to transfer in writing;*
- (c) The writing declaring the intent to transfer the domicile of the trust is delivered to the trustee, if it is executed by a person other than the trustee; and*
- (d) All requirements of this chapter are satisfied simultaneously with, or immediately after, the change of domicile.*

2. For purposes of NRS 166.170, if the domicile of an existing trust is transferred from another state or from a foreign jurisdiction to this State and the laws of the other state or jurisdiction are similar to the provisions of this chapter, the transfer shall be deemed to have occurred:

- (a) On the date on which the settlor of the trust transferred assets into the trust if the applicable law of the trust has at all times been substantially similar to the provisions of this chapter; or*
- (b) On the earliest date on which the applicable laws of the trust were substantially similar to the provisions of this chapter.*

Sec. 203. *The settlor of a spendthrift trust has only those powers and rights that are conferred to the settlor by the trust instrument. An*

agreement or understanding, express or implied, between the settlor and the trustee that attempts to grant or permit the retention of greater rights or authority than is stated in the trust instrument is void.

Sec. 204. NRS 166.015 is hereby amended to read as follows:

166.015 1. Unless the writing declares to the contrary, expressly, this chapter governs the construction, operation and enforcement, in this State, of all spendthrift trusts created in or outside this State if:

- (a) All or part of the land, rents, issues or profits affected are in this State;
- (b) All or part of the personal property, interest of money, dividends upon stock and other produce thereof, affected, are in this State;
- (c) The declared domicile of the creator of a spendthrift trust affecting personal property is in this State; or

(d) At least one trustee qualified under subsection 2 has powers that include maintaining records and preparing income tax returns for the trust, and all or part of the administration of the trust is performed in this State.

2. If the settlor is a beneficiary of the trust, at least one trustee of a spendthrift trust must be:

- (a) A natural person who resides and has his or her domicile in this State;
- (b) A trust company that:
 - (1) Is organized under federal law or under the laws of this State or another state; and
 - (2) Maintains an office in this State for the transaction of business; or
- (c) A bank that:
 - (1) Is organized under federal law or under the laws of this State or another state;
 - (2) Maintains an office in this State for the transaction of business; and
 - (3) Possesses and exercises trust powers.

~~3. Except as otherwise provided in subsection 1, this chapter also governs the construction, operation and enforcement, outside of this State, of all spendthrift trusts created in this State, except so far as prohibited by valid laws of other states. Unless the writing declares to the contrary, expressly, it shall be deemed to be made in the light of this chapter and all other acts relating to spendthrift trusts enacted in this State.~~

Sec. 205. NRS 166.040 is hereby amended to read as follows:

166.040 1. Any person competent by law to execute a will or deed may, by writing only, duly executed, by will, conveyance or other writing, create a spendthrift trust in real, personal or mixed property for the benefit of:

- (a) A person other than the settlor;
- (b) The settlor if the writing is irrevocable, does not require that any part of the income or principal of the trust be distributed to the settlor, and was not intended to hinder, delay or defraud known creditors; or
- (c) Both the settlor and another person if the writing meets the requirements of paragraph (b).

2. For the purposes of this section, a writing is:

—(a) Is ~~"irrevocable"~~ *meets the requirements of paragraph (b) of subsection 1* even if ~~[the]~~ *under the terms of the writing:*

(a) *The settlor may prevent a distribution from the trust* ~~[or]~~ ;

(b) *The settlor holds a special lifetime or testamentary* ~~[special]~~ *power of appointment* ~~[or similar power]~~.

—(b) ~~Does not "require" a distribution to the settlor if the trust instrument provides that the settlor may receive it only in the discretion of another person.] that cannot be exercised in favor of the settlor, the settlor's estate, a creditor of the settlor or a creditor of the settlor's estate;~~

(c) *The settlor is a beneficiary of a trust that qualifies as a charitable remainder trust pursuant to 26 U.S.C. § 664, or any successor provision, even if the settlor has the right to release the settlor's retained interest in such a trust, in whole or in part, in favor of one or more of the remainder beneficiaries of the trust;*

(d) *The settlor is authorized or entitled to receive a percentage of the value of the trust each year as specified in the trust instrument of the initial value of the trust assets or their value determined from time to time pursuant to the trust instrument, but not exceeding:*

(1) *The amount that may be defined as income pursuant to 26 U.S.C. § 643(b); or*

(2) *With respect to benefits from any qualified retirement plan or any eligible deferred compensation plan, the minimum required distribution as defined in 26 U.S.C. § 4974(b);*

(e) *The settlor is authorized or entitled to receive income or principal from a grantor retained annuity trust paying out a qualified annuity interest within the meaning of 26 C.F.R. § 25.2702-3(b) or a grantor retained unitrust paying out a qualified unitrust interest within the meaning of 26 C.F.R. § 25.2702-3(c);*

(f) *The settlor is authorized or entitled to use real property held under a qualified personal residence trust as described in 26 C.F.R. § 25.2702-5(c), and any successor provision, or the settlor may possess or actually possesses a qualified annuity interest within the meaning of that term as described in 26 C.F.R. § 25.2702-3(b), and any successor provision;*

(g) *The settlor is authorized to receive income or principal from the trust, but only subject to the discretion of another person; or*

(h) *The settlor is authorized to use real or personal property owned by the trust.*

3. Except for the power of the settlor to make distributions to himself or herself without the consent of another person, the provisions of this section shall not be construed to prohibit the settlor of a spendthrift trust from holding other powers under the trust, whether or not the settlor is a cotrustee, including, without limitation, the power to remove and replace a trustee, direct trust investments and execute other management powers.

4. *As used in this section, "remainder beneficiary" has the meaning ascribed to it in NRS 164.785.*

Sec. 206. NRS 166.170 is hereby amended to read as follows:

166.170 1. A person may not bring an action with respect to a transfer of property to a spendthrift trust:

(a) If the person is a creditor when the transfer is made, unless the action is commenced within:

(1) Two years after the transfer is made; or

(2) Six months after the person discovers or reasonably should have discovered the transfer,

↪ whichever is later.

(b) If the person becomes a creditor after the transfer is made, unless the action is commenced within 2 years after the transfer is made.

2. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

3. A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove ***by clear and convincing evidence*** that the transfer of property was a fraudulent transfer pursuant to chapter 112 of NRS or ~~[was otherwise wrongful as to the]~~ ***that the transfer violates a legal obligation owed to the creditor under a contract or a valid court order that is legally enforceable by that creditor.*** In the absence of such ***clear and convincing*** proof, the property transferred is not subject to the claims of the creditor. Proof by one creditor that a transfer of property was fraudulent or wrongful does not constitute proof as to any other creditor and proof of a fraudulent or wrongful transfer of property as to one creditor shall not invalidate any other transfer of property.

4. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of subsection 1, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.

5. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.

6. ***A person other than a beneficiary or settlor may not bring a claim against a trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the trustee acted in violation of the laws of this State, knowingly and in bad faith, and the trustee's actions directly caused the damages suffered by the person. As used in this subsection, "trustee" includes a cotrustee, if any, and a predecessor trustee.***

7. *If more than one transfer is made to a spendthrift trust:*

(a) *The subsequent transfer to the spendthrift trust must be disregarded for the purpose of determining whether a person may bring an action pursuant to subsection 1 with respect to a prior transfer to the spendthrift trust; and*

(b) *Any distribution to a beneficiary from the spendthrift trust shall be deemed to have been made from the most recent transfer made to the spendthrift trust.*

8. *Notwithstanding any other provision of law, no action of any kind, including, without limitation, an action to enforce a judgment entered by a court or other body having adjudicative authority, may be brought at law or in equity against the trustee of a spendthrift trust if, as of the date the action is brought, an action by a creditor with respect to a transfer to the spendthrift trust would be barred pursuant to this section.*

9. *For purposes of this section, if a trustee exercises his or her discretion or authority to distribute trust income or principal to or for a beneficiary of the spendthrift trust, by appointing the property of the original spendthrift trust in favor of a second spendthrift trust for the benefit of one or more of the beneficiaries as authorized by NRS 163.556, the time of the transfer for purposes of this section shall be deemed to have occurred on the date the settlor of the original spendthrift trust transferred assets into the original spendthrift trust, regardless of the fact that the property of the original spendthrift trust may have been transferred to a second spendthrift trust.*

10. As used in this section:

(a) "Adviser" means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who participated in the preparation of accountings, tax returns or other reports related to the trust.

(b) "Creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150.

Sec. 207. NRS 253.0415 is hereby amended to read as follows:

253.0415 1. The public administrator shall:

(a) Investigate:

(1) The financial status of any decedent for whom he or she has been requested to serve as administrator to determine the assets and liabilities of the estate.

(2) Whether there is any qualified person who is willing and able to serve as administrator of the estate of an intestate decedent to determine whether he or she is eligible to serve in that capacity.

(3) Whether there are beneficiaries named on any asset of the estate or whether any deed upon death executed pursuant to NRS 111.109 is on file with the county recorder.

(b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the court for letters of administration of the estate of an intestate decedent if, after investigation, the public administrator finds that there is no other qualified person having a prior right who is willing and able to serve.

(c) Upon court order, act as administrator of the estate of an intestate decedent, regardless of the amount of assets in the estate of the decedent if no other qualified person is willing and able to serve.

2. The public administrator shall not administer any estate:

(a) Held in joint tenancy unless all joint tenants are deceased; *or*

(b) ~~{For which a beneficiary form has been registered pursuant to NRS 111.480 to 111.650, inclusive; or~~

~~—(c)} For which a deed upon death has been executed pursuant to NRS 111.109.~~

3. As used in this section, "intestate decedent" means a person who has died without leaving a valid will, trust or other estate plan.

Sec. 208. NRS 678.630 is hereby amended to read as follows:

678.630 1. Any account payable to a trustee for another person may be paid to the trustee on demand.

2. ~~{Unless a credit union has received written notice of the terms of any trust other than the form of the account, payment may be made to the:~~

~~—(a) Personal representative or heirs of a deceased trustee if proof of death is presented to the credit union showing that the decedent was the survivor of all other persons named on the account either as trustee or beneficiary; or~~

~~—(b) Beneficiary upon presentation to the credit union of proof of death showing that such beneficiary or beneficiaries survived all persons named as trustees.~~

~~—3.} The protection provided a credit union in {subsections 1 and 2} **subsection 1** has no bearing on the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of funds in, or withdrawn from, multiple-party accounts.~~

Sec. 209. NRS 111.480, 111.490, 111.500, 111.510, 111.520, 111.530, 111.540, 111.550, 111.560, 111.570, 111.580, 111.590, 111.600, 111.610, 111.620, 111.630, 111.640, 111.650, 133.105, 663.025, 673.370, 677.614, 678.580, 678.590, 678.600, 678.610, 678.620 and 678.640 are hereby repealed.

Sec. 210. The amendatory provisions of:

1. Sections 73 and 177 of this act apply to existing wills, whenever created.

2. Sections 185 to 199, inclusive, of this act apply to nontestamentary trusts, whenever created, but shall not be construed to require a trustee to modify or update an account that:

(a) Has been approved by the court or by the trust's beneficiaries; or

(b) Is deemed approved by the trust's beneficiaries pursuant to the provisions of the trust instrument or pursuant to paragraph (h) of subsection 1 of section 192 of this act.

LEADLINES OF REPEALED SECTIONS

- 111.480** Short title; uniformity of application and construction.
- 111.490** Definitions.
- 111.500** "Beneficiary" defined.
- 111.510** "Beneficiary form" defined.
- 111.520** "Register" defined.
- 111.530** "Registering entity" defined.
- 111.540** "Security" defined.
- 111.550** Applicability.
- 111.560** Persons eligible to obtain registration; manner in which multiple owners of registered securities hold title.
- 111.570** Validity of registration.
- 111.580** Designation of beneficiary required for registration.
- 111.590** Words or abbreviations indicating registration.
- 111.600** Effect of designation of beneficiary on ownership of registered securities; cancellation or modification of registration.
- 111.610** Disposition of registered securities upon death of owner.
- 111.620** Transfer on death of registered security is contractual and not testamentary; rights of creditors.
- 111.630** Offer or acceptance of requests for registration by registering entity.
- 111.640** Right of registering entity to establish terms and conditions for receiving and effectuating registrations; substitution and identification of beneficiaries.
- 111.650** Liability of registering entity.
- 133.105** Transfer of security issued in registered form or beneficiary form effective without compliance with formal requirements of chapter.
- 663.025** Deposits in trust.
- 673.370** Payment to beneficiary on death of trustee; payment as valid discharge of association.
- 677.614** Payment of withdrawal value and interest to beneficiary upon death of fiduciary.
- 678.580** Presumptions concerning ownership of accounts.
- 678.590** Multiple-party accounts: Proportional ownership; tenancy in common.
- 678.600** Multiple-party accounts: Survivorship.
- 678.610** Trust accounts.
- 678.620** Payment as valid discharge of credit union.
- 678.640** Payment of multiple-party accounts.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 221.

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

Amendment No. 743 requires a trustee who is administering an irrevocable trust to equitably reduce the amount of expenses charged against an income beneficiary if those charges would exceed 15 percent of the trust's income, unless one of the following exceptions applies: the

trustee reasonably concludes that the reduction is not in the best interest of the beneficiaries; the reduction would violate the express terms of the trust instrument; the trust instrument authorizes the trustee to distribute trust principal to each income beneficiary; or the trustee gives notice of the intent not to make the adjustment, and no current income beneficiary objects.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senator Horsford moved that the Senate recess until 8 p.m.

Motion carried.

Senate in recess at 6:41 p.m.

SENATE IN SESSION

At 8:41 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 421, 426, 443, 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 Bills Nos. 60, 440, 446; Assembly Bill No. 117, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

STEVEN A. HORSFORD, *Chair*

Mr. President:

Your Committee on Government Affairs, to which was referred Assembly Bill No. 242, 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 were referred Assembly Bills Nos. 136, 294, 388, 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 Assembly Bills Nos. 81, 337, 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 Transportation, to which was referred Assembly Bill No. 277, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, all Senate bills and resolutions reported out of committee be immediately placed on the appropriate reading files, time permitting, for this legislative day.

Motion carried.

Senator Halseth moved that the action whereby Assembly Bill No. 379 was moved to the next legislative day be recinded.

Motion carried.

Senator Halseth moved to place Assembly Bill No. 379 on the Second Reading File on this agenda.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 421.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 608.

"SUMMARY—Revises provisions relating to certain funds. (BDR 40-1170)"

"AN ACT relating to public health; increasing the percentage of certain money received by the State to be allocated to the Fund for a Healthy Nevada; revising provisions relating to the allocation of money in the Fund for a Healthy Nevada; eliminating the Trust Fund for Public Health; providing for the transfer of money remaining in the Trust Fund for Public Health; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Trust Fund for Public Health receives 10 percent of all "tobacco settlement" money, which is that money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products and money received by the State pursuant to any judgment in a civil action against a manufacturer of tobacco products. The Trust Fund for Public Health uses interest and income earned on that money to fund grants for programs relating to public health. (NRS 439.605) Additionally, 50 percent of all tobacco settlement money goes to the Fund for a Healthy Nevada and is then allocated to various other programs relating to public health in amounts or according to percentages of available revenues set by statute. (NRS 439.620, 439.630)

This bill eliminates the Trust Fund for Public Health and provides for money in the Trust Fund for Public Health to be transferred to the Fund for a Healthy Nevada. This bill also increases to 60 percent the share of tobacco settlement money allocated to the Fund for a Healthy Nevada. Additionally, this bill removes the provisions setting the percentages of available revenues to be allocated from the Fund for a Healthy Nevada on specific programs and instead requires the Department of Health and Human Services to propose a

biennial plan for the allocation of money for those programs. The plan must be submitted as part of the proposed biennial budget of the Department. Finally, this bill removes certain programs relating to the prevention, reduction and treatment of tobacco use from the list of programs for which money in the Fund for a Healthy Nevada must be allocated.

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

Section 1. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) ~~Fifty~~ **Sixty** percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) ~~Fifty~~ **Sixty** percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:

(a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and

(b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging and Disability Services Division of the Department, to carry out its duties set forth in NRS 439.630, to administer the provisions of NRS 439.635 to 439.690, inclusive, and NRS 439.705 to 439.795, inclusive.

↪ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to be used for any purpose authorized by the Legislature or by the Department for expenditure or allocation in accordance with the provisions of NRS 439.630. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

- (1) Promote public health;
- (2) Improve health services for children, senior citizens and persons with disabilities;
- (3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and
- (4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) ~~{Allocate not more than 30 percent of available revenues}~~ ***Subject to legislative appropriation, allocate money*** for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The

Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) ~~{Allocate,}~~ ***Subject to legislative appropriation, allocate,*** by contract or grant, ***money*** for expenditure ~~{not more than 30 percent of available revenues for allocation}~~ by the Aging and Disability Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

- (1) Respite care or relief of informal caretakers;
- (2) Transportation to new or existing services to assist senior citizens in living independently; and
- (3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➤ The Aging and Disability Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate \$200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

- (1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and
- (2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➤ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

(f) ~~{Allocate to the Health Division not more than 15 percent of available revenues for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:~~

- ~~— (1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;~~
- ~~— (2) For such programs in counties whose population is less than 100,000; and~~
- ~~— (3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.~~

~~—(g) Allocate,}~~ ***Subject to legislative appropriation, allocate***, by contract or grant, ***money*** for expenditure ~~{not more than 10 percent of available revenues}~~ for programs that improve the health ~~{services for children,}~~ **and well-being of residents of this State.**

~~{(h) Allocate,}~~

(g) Subject to legislative appropriation, allocate, by contract or grant, ***money*** for expenditure ~~{not more than 10 percent of available revenues}~~ for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:

(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;

(2) Programs that provide positive behavioral supports to persons with disabilities; and

(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.

~~{(i) Allocate not more than 5 percent of available revenues}~~

(h) Subject to legislative appropriation, allocate money for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

~~{(j)}~~ ***(i)*** Maximize expenditures through local, federal and private matching contributions.

~~{(k)}~~ ***(j)*** Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

~~{(l)}~~ ***(k)*** Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

~~{(m)}~~ ***(l)*** To make the allocations required by paragraphs ~~{(f),}~~ (g) and (h):

(1) Prioritize and quantify the needs for these programs;

(2) Develop, solicit and accept applications for allocations;

(3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;

(4) Conduct annual evaluations of programs to which allocations have been awarded; and

(5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~{(n)}~~ **(m)** Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

(n) Develop a plan each biennium to determine the percentage of available money in the Fund for a Healthy Nevada to be allocated from the Fund for the purposes described in paragraphs (c), (d), (f), (g) and (h). The plan must be submitted as part of the proposed budget submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

- (a) Prioritize and quantify the needs of senior citizens for these programs;
- (b) Develop, solicit and accept grant applications for allocations;
- (c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;
- (d) Award grants, contracts or other allocations;
- (e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other

devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

~~{6. —As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.}~~

Sec. 3. The State Controller shall transfer to the Fund for a Healthy Nevada created by NRS 439.620, as soon as practicable on or after July 1, 2011, all money remaining in the Trust Fund for Public Health created by NRS 439.605 that has not been committed for expenditure.

Sec. 4. NRS 439.605, 439.610 and 439.615 are hereby repealed.

Sec. 5. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.605 Creation and administration of Fund; permissible investments; appropriation and expenditure of interest and income.

1. The Trust Fund for Public Health is hereby created in the State Treasury. The State Treasurer shall deposit in the Trust Fund:

(a) Ten percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Ten percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

(a) Shall maintain the financial records of the Trust Fund;

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Trust Fund.

3. In addition to the investments authorized pursuant to paragraph (b) of subsection 2, the State Treasurer may, except as otherwise provided in subsection 4, invest the money in the Trust Fund in:

(a) 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 Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) 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 Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 2 and paragraphs (a) and (b) of this subsection.

4. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 3 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 subsection 3. 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.

5. The interest and income earned on the money in the Trust Fund is hereby appropriated to the Board of Trustees of the Trust Fund for Public Health and must, after deducting any applicable charges, be credited to the Fund and accounted for separately. All claims against the Fund must be paid as other claims against the State are paid.

6. Only the interest and income earned on the money in the Trust Fund may be expended. Such expenditures may be made for:

(a) Grants made pursuant to NRS 439.615 for:

(1) The promotion of public health and programs for the prevention of disease or illness;

- (2) Research on issues related to public health; and
- (3) The provision of direct health care services to children and senior citizens;
- (b) Expenses related to the operation of the Board of Trustees of the Trust Fund;
- (c) Actual costs incurred by the Health Division for providing administrative assistance to the Board, but in no event may more than 2 percent of the money in the Fund be used for administrative expenses or other indirect costs; and
- (d) Any other purpose authorized by the Legislature.

7. The money in the Trust Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

439.610 Board of Trustees of Fund: Creation; membership; election of Chair; meetings; quorum; compensation of members; administrative support.

1. The Board of Trustees of the Trust Fund for Public Health is hereby created.

2. The Board consists of 11 members composed of:

- (a) The Administrator or a designee of the Administrator.
- (b) The State Health Officer or a designee of the State Health Officer.
- (c) The Chair of the Nevada Commission on Aging or a designee of the Chair.
- (d) The Chair of the State Board of Health or a designee of the Chair.
- (e) The Chair of the Advisory Board on Maternal and Child Health or a designee of the Chair.

(f) The superintendent of schools of the school district in this State that has the highest number of enrolled pupils or a designee of that superintendent.

(g) The county health officers of the two most populous counties in this State.

(h) One member appointed by the Nevada Association of Counties, or its successor, who serves as a county health officer in a rural area of this State.

(i) A representative of the University of Nevada School of Medicine appointed by the Dean of the School of Medicine.

(j) One member appointed by the Governor who possesses knowledge, skill and experience in providing health care services.

3. The term of a member of the Board who is appointed pursuant to paragraph (h), (i) or (j) of subsection 2 is 4 years.

4. The Board shall annually elect a Chair from among its members. The Board shall meet at least quarterly. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

5. Each member of the Board serves without compensation. While engaged in the business of the Board, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the Board who is an officer or employee of this State or a local government thereof must be paid by the state agency or the local government.

(b) Any other member of the Board must be paid from the interest and income earned on the money in the Trust Fund.

6. Each member of the Board who is an officer or employee of this State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the officer or employee may perform his or her duties relating to the Board 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 Board to:

(a) Make up the time he or she is absent from work to fulfill his or her obligations as a member of the Board; or

(b) Take annual leave or compensatory time for the absence.

7. The Health Division shall provide such administrative support to the Board as is required to carry out the duties of the Board.

439.615 Board of Trustees of Fund: Powers and duties.

1. The Board of Trustees shall:

(a) In accordance with the provisions set forth in subsection 6 of NRS 439.605, develop policies and procedures for the expenditure of the interest and income earned on the money in the Trust Fund for Public Health.

(b) After deducting authorized expenses, annually make grants in a cumulative amount equal to the interest and income earned on the money in the Trust Fund for Public Health.

(c) Develop forms for requests for proposals for grants and disseminate information about the grant program. A condition of each such grant must be that not more than 8 percent of the grant may be used for administrative expenses and other indirect costs.

(d) Publish an annual report of the activities of the Board and the grants made by the Board. A copy of each such report must be transmitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

2. The Board may take such other actions as are necessary to carry out its duties and the provisions of this section and NRS 439.605 and 439.610.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 608 eliminates the Trust Fund for Public Health, and in so doing increases the share of Tobacco Settlement Funds allocated to the Fund for a Healthy Nevada from 50 percent to 60 percent.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 426.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 818.

"SUMMARY—Makes various changes related to energy. (BDR 58-1156)"

"AN ACT relating to energy; eliminating the Renewable Energy and Energy Efficiency Authority and the position of Nevada Energy Commissioner; requiring the Office of Energy and its Director to assume certain responsibilities of the repealed entities; transferring authority for the program to track the use of energy in buildings occupied by state agencies to the Office of Energy; revising provisions governing certain contracts necessary to carry out the program; revising provisions relating to the partial abatement of certain taxes for qualified energy systems; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes a Renewable Energy and Energy Efficiency Authority and creates the position of Nevada Energy Commissioner as its head. (NRS 701.330-701.400) This bill repeals the position of Nevada Energy Commissioner and the Renewable Energy and Energy Efficiency Authority and requires the Office of Energy and its Director to assume the duties of those entities. **Sections 15 and 19** of this bill give the Director of the Office of Energy the authority to add not more than three members to the State and Local Government Panel on Renewable and Efficient Energy and the New Energy Industry Task Force, respectively. **Section 34** of this bill transfers responsibility for the program to track the use of energy in buildings occupied by state agencies from the Buildings and Grounds Division of the Department of Administration to the Office of Energy, and authorizes the Director of the Office of Energy to enter into certain contracts to carry out the program.

Section 23.5 of this bill revises certain provisions relating to eligibility for the partial abatement of certain taxes for certain energy systems that are used to heat or cool buildings or the water used by such buildings or to provide electricity to certain buildings or irrigation systems.

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

Section 1. NRS 701.020 is hereby amended to read as follows:

701.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~{701.025}~~ **701.030** to 701.090, inclusive, have the meanings ascribed to them in those sections.

Sec. 2. NRS 701.160 is hereby amended to read as follows:

701.160 The Director shall prepare a report concerning the status of energy in the State of Nevada and submit it to:

1. The Governor ~~{and the Commissioner}~~ on or before ~~{July}~~ **January 30** of each year; and

2. The Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature on or before ~~July 1~~ **January 30** of each ~~even-numbered~~ **odd-numbered** year.

Sec. 3. NRS 701.180 is hereby amended to read as follows:

701.180 The Director shall:

1. Acquire and analyze information relating to energy and to the supply, demand and conservation of its sources, including, without limitation:

(a) Information relating to the Solar Energy Systems Incentive Program created pursuant to NRS 701B.240 including, without limitation, information relating to:

(1) The development of distributed generation systems in this State pursuant to participation in the Solar Energy Systems Incentive Program;

(2) The use of carbon-based energy in residential and commercial applications due to participation in the Program; and

(3) The average cost of generation on a kilowatt-hour basis for residential and commercial applications due to participation in the Program; and

(b) Information relating to any money distributed pursuant to NRS 702.270.

2. Review and evaluate information which identifies trends and permits forecasting of the energy available to the State. Such forecasts must include estimates on:

(a) The level of demand for energy in the State for 5-, 10- and 20-year periods;

(b) The amount of energy available to meet each level of demand;

(c) The probable implications of the forecast on the demand and supply of energy; and

(d) The sources of renewable energy and other alternative sources of energy which are available and their possible effects.

3. Study means of reducing wasteful, inefficient, unnecessary or uneconomical uses of energy and encourage the maximum utilization of existing sources of energy in the State.

4. Solicit and serve as the point of contact for grants and other money from the Federal Government, including, without limitation, any grants and other money available pursuant to any program administered by the United States Department of Energy, and other sources : ~~{to cooperate with the Commissioner and the Authority;}~~

(a) To promote energy projects that enhance the economic development of the State;

(b) To promote the use of renewable energy in this State;

(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;

(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and

(e) If the ~~{Commissioner}~~ **Director** determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).

5. Coordinate the activities and programs of the Office of Energy with the activities and programs of the ~~{Authority, the}~~ Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

6. If requested to make a determination pursuant to NRS 111.239 or 278.0208, make the determination within 30 days after receiving the request. If the Director needs additional information to make the determination, the Director may request the information from the person making the request for a determination. Within 15 days after receiving the additional information, the Director shall make a determination on the request.

7. Carry out all other directives concerning energy that are prescribed by the Governor.

Sec. 4. NRS 701.190 is hereby amended to read as follows:

701.190 1. The ~~{Commissioner}~~ **Director** shall prepare a comprehensive state energy plan which provides for the promotion of:

- (a) Energy projects that enhance the economic development of the State;
- (b) The use of renewable energy;
- (c) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy; and
- (d) A program for the safe disposal and recycling of electronic waste, electrical equipment and other waste, including, without limitation, a program for the safe disposal and recycling of compact fluorescent light bulbs.

2. The comprehensive state energy plan must include provisions for:

(a) The assessment of the potential benefits of proposed energy projects on the economic development of the State.

(b) The education of persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(c) The creation of incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(d) Grants and other money to establish programs and conduct activities which promote:

(1) Energy projects that enhance the economic development of the State;

(2) The use of renewable energy;

(3) The use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy; and

(4) The recycling of electronic waste, electrical equipment and other waste, including, without limitation, a program for the safe disposal and recycling of compact fluorescent light bulbs.

(e) The development or incorporation by reference of model and uniform building and energy codes and standards which are written in language that is easy to understand and which include performance standards for conservation of energy and efficient use of energy.

(f) The promotion of the development in this State of a curriculum for a program of renewable energy education and recycling education in kindergarten through grade 12.

(g) The promotion of the development by institutions of higher education in this State of research and educational programs relating to renewable energy.

(h) Oversight and accountability with respect to all programs and activities described in this subsection.

(i) Any other matter that the ~~{Commissioner}~~ **Director** determines to be relevant to the issues of energy resources, energy use, energy conservation and energy efficiency.

Sec. 5. NRS 701.200 is hereby amended to read as follows:

701.200 1. The ~~{Commissioner}~~ **Director** may recommend to state agencies, local governments and appropriate private persons and entities, standards for conservation of energy and its sources and for carrying out the comprehensive state energy plan.

2. In recommending such standards, the ~~{Commissioner}~~ **Director** shall consider the usage of energy and its sources in the State and the methods available for conservation of those sources.

Sec. 6. NRS 701.210 is hereby amended to read as follows:

701.210 The ~~{Commissioner}~~ **Director** shall:

1. Prepare, subject to the approval of the Governor, petroleum allocation and rationing plans for possible energy contingencies. The plans shall be carried out only by executive order of the Governor.

2. Carry out and administer any federal programs which authorize state participation in fuel allocation programs.

Sec. 7. NRS 701.220 is hereby amended to read as follows:

701.220 1. The ~~{Commissioner}~~ **Director** shall adopt regulations for the conservation of energy in buildings, including manufactured homes. Such regulations must include the adoption of the most recent version of the International Energy Conservation Code, issued by the International Code Council, and any amendments to the Code that will not materially lessen the effective energy savings requirements of the Code and are deemed necessary to support effective compliance and enforcement of the Code, and must establish the minimum standards for:

(a) The construction of floors, walls, ceilings and roofs;

(b) The equipment and systems for heating, ventilation and air-conditioning;

(c) Electrical equipment and systems;

(d) Insulation; and

(e) Other factors which affect the use of energy in a building.

↪ The regulations must provide for the adoption of the most recent version of the International Energy Conservation Code, and any amendments thereto, every third year.

2. The ~~{Commissioner}~~ **Director** may exempt a building from a standard if the ~~{Commissioner}~~ **Director** determines that application of the standard to the building would not accomplish the purpose of the regulations.

3. The regulations must authorize allowances in design and construction for sources of renewable energy used to supply all or a part of the energy required in a building.

4. The standards adopted by the ~~{Commissioner}~~ **Director** are the minimum standards for the conservation of energy and energy efficiency in buildings in this State. The governing body of a local government that is authorized by law to adopt and enforce a building code:

(a) Except as otherwise provided in paragraph (b), shall incorporate the standards adopted by the ~~{Commissioner}~~ **Director** in its building code;

(b) May adopt higher or more stringent standards and must report any such higher or more stringent standards, along with supporting documents, to the ~~{Commissioner}~~ **Director**; and

(c) Shall enforce the standards adopted.

5. The ~~{Commissioner}~~ **Director** shall solicit comments regarding the adoption of regulations pursuant to this section from:

(a) Persons in the business of constructing and selling homes;

(b) Contractors;

(c) Public utilities;

(d) Local building officials; and

(e) The general public,

↪ before adopting any regulations. The ~~{Commissioner}~~ **Director** must conduct at least three hearings in different locations in the State, after giving 30 days' notice of each hearing, before the ~~{Commissioner}~~ **Director** may adopt any regulations pursuant to this section.

Sec. 8. NRS 701.240 is hereby amended to read as follows:

701.240 1. The ~~{Commissioner}~~ **Director** shall develop a program to distribute money, within the limits of legislative appropriation, in the form of grants, incentives or rebates to persons to pay or defray, in whole or in part, the costs for those persons to acquire, install or improve net metering systems, if the ~~{Commissioner}~~ **Director** determines that the distribution of money to a person for that purpose will encourage, promote or stimulate:

(a) The development or use of sources of renewable energy in the State or the development of industries or technologies that use sources of renewable energy in the State;

(b) The conservation of energy in the State, the diversification of the types of energy used in the State or any reduction in the dependence of the State on foreign sources of energy;

(c) The protection of the natural resources of the State or the improvement of the environment;

(d) The enhancement of existing utility facilities or any other infrastructure in the State or the development of new utility facilities or any other infrastructure in the State; or

(e) The investment of capital or the expansion of business opportunities in the State or any growth in the economy of the State.

2. The ~~{Commissioner}~~ **Director** may adopt any regulations that are necessary to carry out the provisions of this section.

3. The ~~{Commissioner}~~ **Director** shall not distribute money to any person pursuant to this section unless:

(a) The person complies with any requirements that the ~~{Commissioner}~~ **Director** adopts by regulation; and

(b) The distribution of the money is consistent with one or more of the public purposes set forth in paragraphs (a) to (e), inclusive, of subsection 1.

4. As used in this section, "person" includes, without limitation, any state or local governmental agency or entity.

Sec. 9. NRS 701.250 is hereby amended to read as follows:

701.250 1. The ~~{Commissioner}~~ **Director** shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.

2. The regulations must include, without limitation:

(a) Standards for evaluating the energy consumption of residential property; and

(b) Provisions prescribing a form to be used pursuant to NRS 113.115, including, without limitation, provisions that require a portion of the form to provide information on programs created pursuant to NRS 702.275 and other programs of improving energy conservation and energy efficiency in residential property.

3. As used in this section:

(a) "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

(b) "Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.

Sec. 10. NRS 701.260 is hereby amended to read as follows:

701.260 1. Between January 1, 2012, and December 31, 2015, inclusive, no general purpose light may be sold in this State unless it produces at least 25 lumens per watt of electricity consumed.

2. On and after January 1, 2016, no general purpose light may be sold in this State unless it meets or exceeds the minimum standard of energy

efficiency established by the ~~{Commissioner}~~ **Director** pursuant to subsection 3 for lumens per watt of electricity consumed.

3. The ~~{Commissioner}~~ **Director** shall adopt regulations to carry out the provisions of this section. The regulations must, without limitation:

(a) Establish a minimum standard of energy efficiency for lumens per watt of electricity consumed that must be produced by general purpose lights sold in this State on and after January 1, 2016. The minimum standard of energy efficiency established by the ~~{Commissioner}~~ **Director** must exceed 25 lumens per watt of electricity consumed.

(b) Attempt to minimize the overall cost to consumers for general purpose lighting, considering the needs of consumers relating to lighting, technological feasibility and anticipated product availability and performance.

4. As used in this section, "general purpose light" means lamps, bulbs, tubes or other devices that provide functional illumination for indoor or outdoor use. The term does not include "specialty lighting" or "lighting necessary to provide illumination for persons with special needs," as defined by the ~~{Commissioner}~~ **Director** by regulation.

Sec. 11. NRS 701.370 is hereby amended to read as follows:

701.370 1. The Trust Fund for Renewable Energy and Energy Conservation is hereby created in the State Treasury.

2. The ~~{Authority}~~ **Director** shall administer the Fund. As administrator of the Fund, the ~~{Authority}~~ **Director**:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties that are necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. Not more than 2 percent of the money in the Fund may be used to pay the costs of administering the Fund.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund may only be expended pursuant to an allocation made by the ~~{Authority}~~ **Director**. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 12. NRS 701.380 is hereby amended to read as follows:

701.380 1. The ~~{Authority}~~ **Director** shall:

(a) Coordinate ~~{its}~~ **the** activities and programs **of the Office of Energy** with the activities and programs of the ~~{Office of Energy, the}~~ Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(b) Spend the money in the Trust Fund for Renewable Energy and Energy Conservation to:

(1) Educate persons and entities concerning renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(2) Create incentives for investment in and the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(3) Distribute grants and other money to establish programs and projects which incorporate the use of renewable energy and measures which conserve or reduce the demand for energy or which result in more efficient use of energy.

(4) Conduct feasibility studies, including, without limitation, any feasibility studies concerning the establishment or expansion of any grants, incentives, rebates or other programs to enable or assist persons to reduce the cost of purchasing distributed generation systems and on-site generation systems and net metering systems that use renewable energy.

(c) Take any other actions that the ~~{Authority}~~ **Director** deems necessary to carry out ~~{its}~~ **the** duties ~~{}~~ **of the Office of Energy**, including, without limitation, contracting with consultants, if necessary, for the purposes of program design or to assist the ~~{Authority}~~ **Director** in carrying out ~~{its}~~ **the** duties ~~{}~~ **of the Office**.

2. The ~~{Authority}~~ **Director** shall prepare an annual report concerning ~~{its}~~ **the** activities and programs **of the Office of Energy** and submit the report to the Legislative Commission and the Governor on or before January 30 of each year. The annual report must include, without limitation:

(a) A description of the objectives of each activity and program;

(b) An analysis of the effectiveness and efficiency of each activity and program in meeting the objectives of the activity or program;

(c) The amount of money distributed for each activity and program from the Trust Fund for Renewable Energy and Energy Conservation and a detailed description of the use of that money for each activity and program;

(d) An analysis of the coordination between the ~~{Authority}~~ **Office of Energy** and other officers and agencies; and

(e) Any changes planned for each activity and program.

3. As used in this section:

(a) "Distributed generation system" means a facility or system for the generation of electricity that is in close proximity to the place where the electricity is consumed:

(1) That uses renewable energy as defined in NRS 704.7811 to generate electricity;

(2) That is located on the property of a customer of an electric utility;

(3) That is connected on the customer's side of the electricity meter;

(4) That provides electricity primarily to offset customer load on that property; and

(5) The excess generation from which is periodically exported to the grid in accordance with the provisions governing net metering systems used by customer-generators pursuant to NRS 704.766 to 704.775, inclusive.

(b) "Electric utility" has the meaning ascribed to it in NRS 704.7571.

Sec. 13. NRS 701.390 is hereby amended to read as follows:

701.390 The ~~Commissioner~~ **Director** shall:

1. Utilize all available public and private means to:

(a) Provide information to the public about issues relating to energy and to explain how conservation of energy and its sources may be accomplished; and

(b) Work with educational and research institutions, trade associations and any other public and private entities in this State to create a database for information on technological development, financing opportunities and federal and state policy developments regarding renewable energy and energy efficiency.

2. Encourage the development of any sources of renewable energy and any energy projects which will benefit the State and any measures which conserve or reduce the demand for energy or which result in more efficient use of energy, including, without limitation, by:

(a) Identifying appropriate areas in this State for the development of sources of renewable energy, based on:

(1) Assessments of solar, wind and geothermal potential;

(2) Evaluations of natural resource constraints;

(3) Current electric transmission infrastructure and capacity; and

(4) The feasibility of the construction of new electric transmission lines;

(b) Working with renewable energy developers to locate their projects within appropriate areas of this State, including, without limitation, assisting the developers to interact with the Bureau of Land Management, the Department of Defense and other federal agencies in:

(1) Expediting land leases;

(2) Resolving site issues; and

(3) Receiving permits for projects on public lands within the appropriate areas of this State;

(c) Coordinating the planning of renewable energy projects in appropriate areas of this State to establish a mix of solar, wind and geothermal renewable

energy systems that create a reliable source of energy and maximize the use of current or future transmission lines and infrastructure; and

(d) Developing proposals for the financing of future electric transmission projects for renewable energy if no such financing proposals exist.

3. Review jointly with the Nevada System of Higher Education the policies of this State relating to the research and development of the geothermal energy resources in this State and make recommendations to the appropriate state and federal agencies concerning methods for the development of those resources.

4. If the ~~{Commissioner}~~ **Director** determines that it is feasible and cost-effective, enter into contracts with researchers from the Nevada System of Higher Education:

(a) To conduct environmental studies relating to the identification of appropriate areas in this State for the development of renewable energy resources, including, without limitation, hydrologic studies, solar resource mapping studies and wind power modeling studies; and

(b) For the development of technologies that will facilitate the energy efficiency of the electricity grid for this State, including, without limitation, meters that facilitate energy efficiency for consumers of electricity.

(c) For the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State with energy efficiency measures.

5. ~~{Cooperate with the Director:~~

~~—(a) To promote energy projects that enhance the economic development of the State;~~

~~—(b) To promote the use of renewable energy in this State;~~

~~—(c) To promote the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy;~~

~~—(d) To develop a comprehensive program for retrofitting public buildings in this State with energy efficiency measures; and~~

~~—(e) If the Commissioner determines that it is feasible and cost-effective, to enter into contracts with researchers from the Nevada System of Higher Education for the design of energy efficiency and retrofit projects to carry out the comprehensive program for retrofitting public buildings in this State developed pursuant to paragraph (d).~~

~~—6. Coordinate the activities and programs of the Authority with the activities and programs of the Office of Energy, the Consumer's Advocate and the Public Utilities Commission of Nevada, and with other federal, state and local officers and agencies that promote, fund, administer or operate activities and programs related to the use of renewable energy and the use of measures which conserve or reduce the demand for energy or which result in more efficient use of energy.~~

~~—7.} Carry out all other directives concerning energy that are prescribed by the Legislature.~~

Sec. 14. NRS 701.400 is hereby amended to read as follows:

701.400 The ~~{Commissioner}~~ **Director** may:

1. ~~{Administer any gifts or grants which the Authority is authorized to accept.~~

~~—2. To the extent not inconsistent with the terms or conditions of a gift, grant, appropriation or authorization, expend money received from those gifts or grants or from any money received through legislative appropriations or authorizations to contract with qualified persons or institutions for research in the production and efficient use of energy resources.~~

~~—3. Enter into any cooperative agreement with any federal or state agency or political subdivision.~~

~~—4.} Participate in any program established by the Federal Government relating to sources of energy and adopt regulations to carry out such a program.~~

~~{5.} 2. Assist developers of renewable energy systems in preparing and making requests to obtain money for development through the issuance of industrial development revenue bonds pursuant to NRS 349.400 to 349.670, inclusive.~~

~~{6. Adopt any regulations that the Commissioner determines are necessary to carry out the duties of the Commissioner or the Authority.~~

~~—7. Within the limits of legislative appropriations and other money authorized for expenditure for such purposes, negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Commissioner or the Authority.}~~

Sec. 15. NRS 701.450 is hereby amended to read as follows:

701.450 1. The State and Local Government Panel on Renewable and Efficient Energy is hereby created.

2. ~~{The}~~ ***Except as otherwise provided in subsection 3, the*** Panel consists of the ~~{Commissioner}~~ **Director** and the following seven members appointed by the ~~{Commissioner.}~~ **Director:**

(a) A representative of the State Public Works Board;

(b) A representative of the Housing Division of the Department of Business and Industry;

(c) A representative of the Buildings and Grounds Division of the Department of Administration;

(d) A representative of the Department of Wildlife;

(e) A representative of the Nevada Association of Counties or its successor organization;

(f) A representative of the Nevada League of Cities or its successor organization; and

(g) A representative of the Nevada Association of School Boards or its successor organization.

3. *The Director may appoint not more than three additional members to the Panel to represent state and local government agencies or private industry in the field of renewable energy or energy efficiency.*

Sec. 16. NRS 701.455 is hereby amended to read as follows:

- 701.455 1. The ~~{Commissioner}~~ **Director** is the Chair of the Panel.
2. The members of the Panel shall meet at the call of the ~~{Commissioner}~~ **Director**. The Panel shall prescribe regulations for its management and government.
3. A majority of the members of the Panel constitutes a quorum, and a quorum may exercise all the powers conferred on the Panel.
4. The members of the Panel serve at the pleasure of the ~~{Commissioner}~~ **Director**.
5. The members of the Panel serve without compensation.
6. The members of the Panel who are state employees:
- (a) Must be relieved from their duties without loss of their regular compensation to perform their duties relating to the Panel in the most timely manner practicable; and
- (b) May not be required to make up the time they are absent from work to fulfill their obligations as members of the Panel or to take annual leave or compensatory time for the absence.

Sec. 17. NRS 701.460 is hereby amended to read as follows:

701.460 The Panel:

1. Shall advise the ~~{Commissioner and the Authority}~~ **Director** on the viability and progress of energy efficiency and renewable energy retrofit projects at public buildings and schools; and
2. May apply for any available grants and accept any gifts, grants or donations to assist the Panel in carrying out its duties pursuant to this section.

Sec. 18. NRS 701.465 is hereby amended to read as follows:

701.465 The ~~{Authority}~~ **Office of Energy** shall provide the personnel, facilities, equipment and supplies required by the Panel to carry out the provisions of NRS 701.450 to 701.465, inclusive.

Sec. 19. NRS 701.500 is hereby amended to read as follows:

- 701.500 1. The New Energy Industry Task Force is hereby created.
2. ~~{The}~~ **Except as otherwise provided in subsection 3, the** Task Force consists of the ~~{Commissioner}~~ **Director** and the following eight members who must be appointed by the ~~{Commissioner}~~ **Director**:
- (a) A representative of the large-scale solar energy industry in this State;
- (b) A representative of the geothermal energy industry in this State;
- (c) A representative of the wind energy industry in this State;
- (d) A representative of the distributed generation industry, energy efficiency equipment and installation industry or manufacturers of equipment for renewable energy power plants in this State;
- (e) A representative of an electric utility in this State;
- (f) A representative of an organization in this State that advocates on behalf of environmental or public lands issues who has expertise in or knowledge of environmental or public lands issues;
- (g) A representative of a labor organization in this State; and
- (h) A representative of an organization that represents contractors in this State.

3. *The Director may appoint not more than three additional members to the Task Force to represent state and local government agencies or private industry in the field of renewable energy or energy efficiency.*

Sec. 20. NRS 701.505 is hereby amended to read as follows:

701.505 1. The ~~{Commissioner}~~ **Director** is the Chair of the Task Force.

2. The members of the Task Force shall meet at the call of the ~~{Commissioner}~~ **Director**. The Task Force shall prescribe regulations for its management and government.

3. A majority of the members of the Task Force constitutes a quorum, and a quorum may exercise all the powers conferred on the Task Force.

4. The members of the Task Force serve at the pleasure of the ~~{Commissioner}~~ **Director**.

5. The members of the Task Force serve without compensation.

Sec. 21. NRS 701.510 is hereby amended to read as follows:

701.510 The Task Force:

1. Shall advise the ~~{Commissioner and the Authority}~~ **Director** on measures to promote the development of renewable energy and energy efficiency projects in this State; and

2. May apply for any available grants and accept any gifts, grants or donations to assist the Task Force in carrying out its duties pursuant to this section.

Sec. 22. NRS 701.515 is hereby amended to read as follows:

701.515 The ~~{Authority}~~ **Director** shall provide the personnel, facilities, equipment and supplies required by the Task Force to carry out the provisions of NRS 701.500 to 701.515, inclusive.

Sec. 23. NRS 701A.110 is hereby amended to read as follows:

701A.110 1. Except as otherwise provided in this section, the Director shall grant a partial abatement from the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, on a building or other structure that is determined to meet the equivalent of the silver level or higher by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100, if:

(a) No funding is provided by any governmental entity in this State for the acquisition, design or construction of the building or other structure or for the acquisition of any land therefor. For the purposes of this paragraph:

(1) Private activity bonds must not be considered funding provided by a governmental entity.

(2) The term "private activity bond" has the meaning ascribed to it in 26 U.S.C. § 141.

(b) The owner of the property:

(1) Submits an application for the partial abatement to the Director. If such an application is submitted for a project that has not been completed on the date of that submission and there is a significant change in the scope of

the project after that date, the application must be amended to include the change or changes.

(2) Except as otherwise provided in this subparagraph, provides to the Director, within 48 months after applying for the partial abatement, proof that the building or other structure meets the equivalent of the silver level or higher, as determined by an independent contractor authorized to make that determination in accordance with the Green Building Rating System adopted by the Director pursuant to NRS 701A.100. The Director may, for good cause shown, extend the period for providing such proof.

(3) Files a copy of each application and amended application submitted to the Director pursuant to subparagraph (1) with the:

- (I) Chief of the Budget Division of the Department of Administration;
- (II) Department of Taxation;
- (III) County assessor;
- (IV) County treasurer;
- (V) Commission on Economic Development;
- (VI) Board of county commissioners; and
- (VII) City manager and city council, if any.

2. As soon as practicable after the Director receives the application and proof required by subsection 1, the Director shall determine whether the building or other structure is eligible for the abatement and, if so, forward a certificate of eligibility for the abatement to the:

- (a) Department of Taxation;
- (b) County assessor;
- (c) County treasurer; and
- (d) Commission on Economic Development.

3. ~~{As soon as practicable after receiving a copy of:~~
~~—(a) An application pursuant to subparagraph (3) of paragraph (b) of subsection 1;~~

~~—(1)} The *Director may, with the assistance of the* Chief of the Budget Division ~~{shall}~~ *and the Department of Taxation*, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State ~~}; and~~~~

~~—(2) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement} and on each affected local government . ~~{, and}~~ *If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall* forward a copy of the fiscal note to each affected local government.~~

~~{(b) A}~~ *As soon as practicable after receiving a copy of a* certificate of eligibility pursuant to subsection 2, the Department of Taxation shall forward a copy of the certificate to each affected local government.

4. The partial abatement:

(a) Must be for a duration of not more than 10 years and in an annual amount that equals, for a building or other structure that meets the equivalent of:

(1) The silver level, 25 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land;

(2) The gold level, 30 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land; or

(3) The platinum level, 35 percent of the portion of the taxes imposed pursuant to chapter 361 of NRS, other than any taxes imposed for public education, that would otherwise be payable for the building or other structure, excluding the associated land.

(b) Does not apply during any period in which the owner of the building or other structure is receiving another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS.

(c) Terminates upon any determination by the Director that the building or other structure has ceased to meet the equivalent of the silver level or higher. The Director shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the building or other structure has ceased to meet that standard. The Director shall immediately provide notice of each determination of termination to the:

(1) Department of Taxation, who shall immediately notify each affected local government of the determination;

(2) County assessor;

(3) County treasurer; and

(4) Commission on Economic Development.

5. The Director shall adopt regulations:

(a) Establishing the qualifications and methods to determine eligibility for the abatement;

(b) Prescribing such forms as will ensure that all information and other documentation necessary to make an appropriate determination is filed with the Director; and

(c) Prescribing the criteria for determining when there is a significant change in the scope of a project for the purposes of subparagraph (1) of paragraph (b) of subsection 1,

➡ and the Department of Taxation shall adopt such additional regulations as it determines to be appropriate to carry out the provisions of this section.

6. As used in this section:

(a) "Building or other structure" does not include any building or other structure for which the principal use is as a residential dwelling for not more than four families.

(b) "Director" means the Director of the Office of Energy appointed pursuant to NRS 701.150.

(c) "Taxes imposed for public education" means:

(1) Any ad valorem tax authorized or required by chapter 387 of NRS;

(2) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020; and

(3) Any other ad valorem tax for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.

Sec. 23.5. NRS 701A.200 is hereby amended to read as follows:

701A.200 1. For purposes of the assessment of property pursuant to chapter 361 of NRS:

(a) Except as otherwise provided in paragraph (b), ~~the value of~~ a qualified system ~~must not be included in the assessed value of a building.~~ **is exempt from taxation.**

(b) ~~Any value added by a~~ **1** qualified system ~~must be included in the assessed value of a commercial or industrial building during~~ **is not exempt from taxation:**

(1) During any period in which the ~~business that owns the commercial or industrial building~~ **qualified system** is ~~receiving~~ **subject to** another abatement or exemption pursuant to this chapter or NRS 361.045 to 361.159, inclusive, from the taxes imposed pursuant to chapter 361 of NRS ~~it~~ **; or**

(2) If the system is constructed after July 1, 2009, and is part of a facility which is eligible for a partial abatement of taxes pursuant to NRS 701A.360.

2. The ~~Department of Taxation~~ **Nevada Tax Commission** shall adopt such regulations as it determines to be necessary for the administration of this section.

3. As used in this section, "qualified system" means any system, method, construction, installation, machinery, equipment, device or appliance which is designed, constructed or installed in ~~a residential, commercial or industrial building~~ **or adjacent to one or more buildings or an irrigation system in an agricultural operation** to heat or cool the building ~~or buildings~~ **or buildings** or water used in the building ~~or buildings~~ **or buildings**, or to provide electricity used in the building ~~or buildings or irrigation system regardless of whether the owner of the system, building or buildings or irrigation system participates in net metering pursuant to NRS 704.766 to 704.775, inclusive,~~ by using:

(a) Energy from the wind or from solar devices ~~; not thermally insulated from the area where the energy is used;~~

(b) Geothermal resources;

(c) Energy derived from conversion of solid wastes; or

(d) Waterpower,

↪ which conforms to standards established by regulation of the ~~Department of Taxation~~ **Nevada Tax Commission.**

Sec. 24. NRS 701A.360 is hereby amended to read as follows:

701A.360 1. A person who intends to locate a facility for the generation of process heat from solar renewable energy, a wholesale facility for the generation of electricity from renewable energy, a facility for the generation of electricity from geothermal resources or a facility for the transmission of electricity produced from renewable energy or geothermal resources in this State may apply to the Director for a partial abatement of the local sales and use taxes, the taxes imposed pursuant to chapter 361 of NRS, or both local sales and use taxes and taxes imposed pursuant to chapter 361 of NRS.

2. A facility that is owned, operated, leased or otherwise controlled by a governmental entity is not eligible for an abatement pursuant to NRS 701A.300 to 701A.390, inclusive.

3. As soon as practicable after the Director receives an application for a partial abatement, the Director shall ~~{submit the application to the Commissioner and}~~ forward a copy of the application to:

(a) The Chief of the Budget Division of the Department of Administration;

(b) The Department of Taxation;

(c) The board of county commissioners;

(d) The county assessor;

(e) The county treasurer; and

(f) The Commission on Economic Development.

4. With the copy of the application forwarded to the county treasurer, the Director shall include a notice that the local jurisdiction may request a presentation regarding the facility. A request for a presentation must be made within 30 days after receipt of the application.

5. The ~~{Commissioner}~~ **Director** shall hold a public hearing on the application. The hearing must not be held earlier than 30 days after all persons listed in subsection 3 have received a copy of the application.

Sec. 25. NRS 701A.365 is hereby amended to read as follows:

701A.365 1. Except as otherwise provided in subsection 2, the ~~{Commissioner}~~ **Director** shall approve an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, if the ~~{Commissioner}~~ **Director** makes the following determinations:

(a) The applicant has executed an agreement with the ~~{Commissioner}~~ **Director** which must:

(1) State that the facility will, after the date on which a certificate of eligibility for the abatement is issued pursuant to NRS 701A.370, continue in operation in this State for a period specified by the ~~{Commissioner}~~ **Director**, which must be at least 10 years, and will continue to meet the eligibility requirements for the abatement; and

(2) Bind the successors in interest in the facility for the specified period.

(b) The facility is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the facility operates.

(c) No funding is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefor, except any private activity bonds as defined in 26 U.S.C. § 141.

(d) If the facility will be located in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the facility meets the following requirements:

(1) There will be 75 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the ~~{Commissioner}~~ **Director** for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$10,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the ~~{Commissioner}~~ **Director** by regulation pursuant to NRS 701A.390.

(e) If the facility will be located in a county whose population is less than 100,000 or a city whose population is less than 60,000, the facility meets the following requirements:

(1) There will be 50 or more full-time employees working on the construction of the facility during the second quarter of construction, including, unless waived by the ~~{Commissioner}~~ **Director** for good cause, at least 30 percent who are residents of Nevada;

(2) Establishing the facility will require the facility to make a capital investment of at least \$3,000,000 in this State;

(3) The average hourly wage that will be paid by the facility to its employees in this State is at least 110 percent of the average statewide hourly

wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year; and

(4) The average hourly wage of the employees working on the construction of the facility will be at least 150 percent of the average statewide hourly wage, excluding management and administrative employees, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The employees working on the construction of the facility must be provided a health insurance plan that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost of the benefits provided to the employees working on the construction of the facility will meet the minimum requirements for benefits established by the ~~{Commissioner}~~ **Director** by regulation pursuant to NRS 701A.390.

(f) The financial benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the facility in this State will exceed the loss of tax revenue that will result from the abatement.

2. The ~~{Commissioner}~~ **Director** shall not approve an application for a partial abatement of the taxes imposed pursuant to chapter 361 of NRS submitted pursuant to NRS 701A.360 by a facility for the generation of electricity from geothermal resources unless the application is approved pursuant to this subsection. The board of county commissioners of a county must approve or deny the application not later than 30 days after the board receives a copy of the application. The board of county commissioners must not condition the approval of the application on a requirement that the facility for the generation of electricity from geothermal resources agree to purchase, lease or otherwise acquire in its own name or on behalf of the county any infrastructure, equipment, facilities or other property in the county that is not directly related to or otherwise necessary for the construction and operation of the facility. If the board of county commissioners does not approve or deny the application within 30 days after the board receives the application, the application shall be deemed denied.

3. Notwithstanding the provisions of subsection 1, the ~~{Commissioner}~~ **Director** may, if the ~~{Commissioner}~~ **Director** determines that such action is necessary:

(a) Approve an application for a partial abatement for a facility that does not meet the requirements set forth in paragraph (d) or (e) of subsection 1; or

(b) Add additional requirements that a facility must meet to qualify for a partial abatement.

Sec. 26. NRS 701A.370 is hereby amended to read as follows:

701A.370 1. If the ~~{Commissioner}~~ **Director** approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

(a) Property taxes imposed pursuant to chapter 361 of NRS, the partial abatement must:

(1) Be for a duration of the 20 fiscal years immediately following the date of approval of the application;

(2) Be equal to 55 percent of the taxes on real and personal property payable by the facility each year; and

(3) Not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(b) Local sales and use taxes:

(1) The partial abatement must:

(I) Be for the 3 years beginning on the date of approval of the application;

(II) Be equal to that portion of the combined rate of all the local sales and use taxes payable by the facility each year which exceeds 0.25 percent; and

(III) Not apply during any period in which the facility is receiving another abatement or exemption from local sales and use taxes.

(2) The Department of Taxation shall issue to the facility a document certifying the abatement which can be presented to retailers at the time of sale. The document must clearly state that the purchaser is only required to pay sales and use taxes imposed in this State at the rate of 2.25 percent.

2. Upon approving an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, the ~~{Commissioner}~~ **Director** shall immediately ~~{notify the Director of the terms of the abatement and the Director shall immediately}~~ forward a certificate of eligibility for the abatement to:

(a) The Department of Taxation;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

Sec. 27. NRS 701A.375 is hereby amended to read as follows:

701A.375 1. ~~{As soon as practicable after receiving a copy of an application pursuant to NRS 701A.360:~~

~~—(a)}~~ The **Director may, with the assistance of the** Chief of the Budget Division of the Department of Administration ~~{shall}~~ **and the Department of Taxation**, publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement on the State and ~~{forward a copy of the fiscal note to the Director for submission to the Commissioner; and}~~

~~—(b) The Department of Taxation shall publish a fiscal note that indicates an estimate of the fiscal impact of the partial abatement} on each affected local government . {and} *If the Director publishes a fiscal note that estimates the fiscal impact of the partial abatement on local government, the Director shall* forward a copy of the fiscal note to each affected local government . {and to the Director for submission to the Commissioner.}~~

2. As soon as practicable after receiving a copy of a certificate of eligibility pursuant to NRS 701A.370, the Department of Taxation shall forward a copy of the certificate to each affected local government.

Sec. 28. NRS 701A.380 is hereby amended to read as follows:

701A.380 1. A partial abatement approved by the ~~{Commissioner}~~ **Director** pursuant to NRS 701A.300 to 701A.390, inclusive, terminates upon any determination by the ~~{Commissioner}~~ **Director** that the facility has ceased to meet any eligibility requirements for the abatement.

2. The ~~{Commissioner}~~ **Director** shall provide notice and a reasonable opportunity to cure any noncompliance issues before making a determination that the facility has ceased to meet those requirements.

3. The ~~{Commissioner}~~ **Director** shall immediately provide notice of each determination of termination ~~{to the Director, and the Director shall immediately provide a copy of the notice}~~ to:

(a) The Department of Taxation, which shall immediately notify each affected local government of the determination;

(b) The board of county commissioners;

(c) The county assessor;

(d) The county treasurer; and

(e) The Commission on Economic Development.

Sec. 29. NRS 701A.385 is hereby amended to read as follows:

701A.385 Notwithstanding any statutory provision to the contrary, if the ~~{Commissioner}~~ **Director** approves an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, of:

1. Property taxes imposed pursuant to chapter 361 of NRS, the amount of all the property taxes which are collected from the facility for the period of the abatement must be allocated and distributed in such a manner that:

(a) Forty-five percent of that amount is deposited in the Renewable Energy Fund created by NRS 701A.450; and

(b) Fifty-five percent of that amount is distributed to the local governmental entities that would otherwise be entitled to receive those taxes in proportion to the relative amount of those taxes those entities would otherwise be entitled to receive.

2. Local sales and use taxes, the State Controller shall allocate, transfer and remit an amount equal to all the sales and use taxes imposed in this State and collected from the facility for the period of the abatement in the same manner as if that amount consisted solely of the proceeds of taxes imposed by NRS 374.110 and 374.190.

Sec. 30. NRS 701A.390 is hereby amended to read as follows:

701A.390 The ~~{Commissioner}~~ **Director**:

1. Shall adopt regulations:

(a) Prescribing the minimum level of benefits that a facility must provide to its employees if the facility is going to use benefits paid to employees as a basis to qualify for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive;

(b) Prescribing such requirements for an application for a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, as will ensure that all information and other documentation necessary for the ~~{Commissioner}~~ **Director** to make an appropriate determination is filed with the Director;

(c) Requiring each recipient of a partial abatement pursuant to NRS 701A.300 to 701A.390, inclusive, to file annually with the Director ~~for submission to the Commissioner,~~ such information and documentation as may be necessary for the ~~{Commissioner}~~ **Director** to determine whether the recipient is in compliance with any eligibility requirements for the abatement; and

(d) Regarding the capital investment that a facility must make to meet the requirement set forth in paragraph (d) or (e) of subsection 1 of NRS 701A.365; and

2. May adopt such other regulations as the ~~{Commissioner}~~ **Director** determines to be necessary to carry out the provisions of NRS 701A.300 to 701A.390, inclusive.

Sec. 31. NRS 701A.450 is hereby amended to read as follows:

701A.450 1. The Renewable Energy Fund is hereby created.

2. The ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** appointed pursuant to NRS ~~{701.340}~~ **701.150** shall administer the Fund.

3. The interest and income earned on the money in the Fund must be credited to the Fund.

4. Not less than 75 percent of the money in the Fund must be used to offset the cost of electricity to retail customers of a public utility that is subject to the portfolio standard established by the Public Utilities Commission of Nevada pursuant to NRS 704.7821.

5. The ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** may establish other uses of the money in the Fund by regulation.

Sec. 32. NRS 704.764 is hereby amended to read as follows:

704.764 1. The Commission shall adopt regulations requiring each electric utility to disclose to its retail customers information about the safe disposal and recycling of electronic waste, electrical systems and other waste, including, without limitation, compact fluorescent light bulbs, in accordance with the comprehensive state energy plan established by the ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** pursuant to NRS 701.190. The disclosure must:

(a) Be in a standard, uniform format established by the Commission by regulation; and

(b) Be included:

(1) At least two times each calendar year, as an insert in the bills that the electric utility sends to its retail customers; and

(2) If the electric utility maintains a website on the Internet or any successor to the Internet, on that website.

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

Sec. 33. NRS 113.115 is hereby amended to read as follows:

113.115 1. Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in NRS 701.250.

2. Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the ~~{Nevada Energy Commissioner,}~~ **Director of the Office of Energy**, as prescribed in regulations adopted pursuant to NRS 701.250.

3. Subsection 1 does not apply to a sale or intended sale of residential property:

(a) By foreclosure pursuant to chapter 107 of NRS.

(b) Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.

(c) By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.

(d) If the seller and purchaser agree to waive the requirements of subsection 1.

4. If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.

Sec. 34. NRS 331.095 is hereby amended to read as follows:

331.095 1. The ~~{Chief}~~ **Director of the Office of Energy** shall establish a program to track the use of energy in buildings owned by the State and in other buildings which are occupied by a state agency and whose owners comply with the program pursuant to subsection 6.

2. The program established pursuant to this section must:

(a) Record utility bills for each building for each month and preserve those records indefinitely;

(b) Allow for the comparison of utility bills for a building from month to month and year to year;

(c) Allow for the comparison of utility bills between buildings, including comparisons between similar buildings or types of buildings;

(d) Allow for adjustments to the information based upon variations in weather conditions, the length of the billing period and other changes in relevant conditions;

(e) Facilitate identification of errors in utility bills and meter readings;

(f) Allow for the projection of costs for energy for a building; and

(g) Identify energy and cost savings associated with efforts to conserve energy.

3. The ~~{Chief}~~ **Director of the Office of Energy** may apply for any available grants and accept any gifts, grants or donations to assist in establishing and carrying out the program.

4. In accordance with, and out of any money received pursuant to, the American Recovery and Reinvestment Act of 2009, Public Law 111-5, the Interim Finance Committee may determine an amount of money to be used by the ~~{Chief}~~ **Director of the Office of Energy** to fulfill the requirements of subsection 1.

5. To the extent that there is not sufficient money available for the support of the program, each state agency that occupies a building in which the use of energy is tracked pursuant to the program shall reimburse the ~~{Buildings and Grounds Division}~~ **Office of Energy** for the agency's proportionate share of the unfunded portion of the cost of the program. The reimbursement must be based upon the energy consumption of the respective state agencies that occupy buildings in which the use of energy is tracked.

6. Notwithstanding any other provision of law, an owner of a building who enters into a contract with a state agency for occupancy in the building:

(a) If the contract is entered into before May 28, 2009, may comply with the program; and

(b) If the contract is entered into on or after May 28, 2009, shall, to the extent practicable as determined by the ~~{Chief}~~ **Director of the Office of Energy**, comply with the program.

➤ If an owner chooses not to comply with the program pursuant to paragraph (a), a state or local agency shall not, after May 28, 2009, enter into a contract for occupancy of a building owned by the owner, except that the Chief may authorize a state or local agency to enter into a contract for the occupancy of a building owned by an owner who does not comply with the program if the ~~{Chief}~~ **Director of the Office of Energy** determines that it is impracticable for the owner to comply with the program.

7. *The Chief shall provide such assistance to the Director of the Office of Energy as is necessary to carry out the provisions of this section.*

8. The Director of the Office of Energy may, pursuant to chapter 333 of NRS, enter into contracts for any engineering, procurement and construction services necessary to carry out the provisions of this section. A contract entered into pursuant to this subsection is not subject to the provisions of chapter 333A of NRS. A contractor who enters into a contract with the Director of the Office of Energy pursuant to this subsection shall

submit to the State Public Works Board a copy of any building permit required for any work performed under the contract.

Sec. 35. NRS 332.430 is hereby amended to read as follows:

332.430 A qualified service company shall provide to the ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** information concerning each performance contract which the qualified service company enters into pursuant to NRS 332.300 to 332.440, inclusive, including, without limitation, the name of the project, the local government for which the project is being carried out and the expected operating cost savings. The ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

Sec. 36. NRS 333A.080 is hereby amended to read as follows:

333A.080 1. The State Public Works Board shall determine those companies that satisfy the requirements of qualified service companies for the purposes of this chapter. In making such a determination, the State Public Works Board shall enlist the assistance of the staffs of the ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy**, the Buildings and Grounds Division of the Department of Administration and the Purchasing Division of the Department of Administration. The State Public Works Board shall prepare and issue a request for qualifications to not less than three potential qualified service companies.

2. In sending out a request for qualifications, the State Public Works Board:

(a) Shall attempt to identify at least one potential qualified service company located within this State; and

(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.

3. The State Public Works Board shall adopt, by regulation, criteria to determine those companies that satisfy the requirements of qualified service companies. The criteria for evaluation must include, without limitation, the following areas as substantive factors to assess the capability of such companies:

(a) Design;

(b) Engineering;

(c) Installation;

(d) Maintenance and repairs associated with performance contracts;

(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost-savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost-savings retrofit;

(f) Monitoring projects after the projects are installed;

(g) Data collection and reporting of savings;

(h) Overall project experience and qualifications;

(i) Management capability;

- (j) Ability to access long-term financing;
- (k) Experience with projects of similar size and scope; and
- (l) Such other factors determined by the State Public Works Board to be relevant and appropriate to the ability of a company to perform the projects.

➔ In determining whether a company satisfies the requirements of a qualified service company, the State Public Works Board shall also consider whether the company holds the appropriate licenses required for the design, engineering and construction which would be completed pursuant to a performance contract.

4. The State Public Works Board shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.

Sec. 37. NRS 333A.140 is hereby amended to read as follows:

333A.140 A qualified service company shall provide to the ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** information concerning each performance contract which the qualified service company enters into pursuant to this chapter, including, without limitation, the name of the project, the using agency for which the project is being carried out and the expected operating cost savings. The ~~{Renewable Energy and Energy Efficiency Authority}~~ **Office of Energy** may report any energy savings realized as a result of such performance contracts to the United States Department of Energy pursuant to 42 U.S.C. § 13385.

Sec. 38. NRS 338.1908 is hereby amended to read as follows:

338.1908 1. The governing body of each local government shall, by July 28, 2009, develop a plan to retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures. Such a plan must:

- (a) Be developed with input from one or more energy retrofit coordinators designated pursuant to NRS 338.1907, if any.

- (b) Include a list of specific projects. The projects must be prioritized and selected on the basis of the following criteria:

- (1) The length of time necessary to commence the project.
- (2) The number of workers estimated to be employed on the project.
- (3) The effectiveness of the project in reducing energy consumption.
- (4) The estimated cost of the project.
- (5) Whether the project is able to be powered by or otherwise use sources of renewable energy.

- (6) Whether the project has qualified for participation in one or more of the following programs:

- (I) The Solar Energy Systems Incentive Program created by NRS 701B.240;

- (II) The Renewable Energy School Pilot Program created by NRS 701B.350;

- (III) The Wind Energy Systems Demonstration Program created by NRS 701B.580; or

(IV) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820.

(c) Include a list of potential funding sources for use in implementing the projects, including, without limitation, money available through the Energy Efficiency and Conservation Block Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts, donations or other sources of money from public and private sources.

2. The governing body of each local government shall transmit the plan developed pursuant to subsection 1 to the ~~{Nevada Energy Commissioner}~~ **Director of the Office of Energy** and to any other entity designated for that purpose by the Legislature.

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection 11 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

(b) "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

- (1) Biomass;
- (2) Fuel cells;
- (3) Geothermal energy;
- (4) Solar energy;
- (5) Waterpower; and
- (6) Wind.

➤ The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

(c) "Retrofit" means to alter, improve, modify, remodel or renovate a building, facility or structure to make that building, facility or structure more energy-efficient.

Sec. 39. NRS 701.025, 701.035, 701.330, 701.340 and 701A.310 are hereby repealed.

Sec. 40. The Legislative Counsel shall, 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. 41. This act becomes effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

701.025 "Authority" defined.

701.035 "Commissioner" defined.

701.330 Creation; Authority may request assistance from Public Utilities Commission of Nevada.

701.340 Appointment and qualifications of Commissioner; personnel, consultants and legal counsel; prohibited conflicts of interest.

701A.310 "Commissioner" defined.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

This is one of the budget implementation bills from the Executive Budget. It eliminates the position of the Nevada Energy Commissioner and the Renewable Energy and Energy Efficiency Authority and transfers the duties of the Commissioner and the Authority to the Director and the Nevada State Office of Energy.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 440.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 817.

"SUMMARY—Creates the Silver State Health Insurance Exchange. (BDR 57-1172)"

"AN ACT relating to health insurance; creating the Silver State Health Insurance Exchange; setting forth the purposes of the Exchange; providing for the composition, appointment and terms of members and powers and duties of the Board of Directors of the Exchange; providing for the appointment and powers and duties of the Executive Director of the Exchange; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill creates the Silver State Health Insurance Exchange to provide services relating to the purchase and sale of health insurance by residents and certain employers in this State. The Exchange is governed by the Board of Directors consisting of five voting members appointed by the Governor, one voting member appointed by the Senate Majority Leader and one voting member appointed by the Speaker of the Assembly. The Board also consists of the directors, or designees thereof, of the Department of Health and Human Services, the Department of Business and Industry and the Department of Administration as ex officio nonvoting members to assist the voting members by providing advice and expertise. Voting members of the Board serve terms of 3 years each. The Board appoints an Executive Director of the Exchange, who in turn may employ such persons as are necessary and as funding allows. Among other duties, the Exchange is required to create and administer a state-based health insurance exchange, facilitate the purchase and sale of qualified health plans, provide for the establishment of a program to help certain small employers in Nevada in facilitating the enrollment of employees in qualified health plans, and perform all other duties that are required of it pursuant to the federal Patient Protection and Affordable Care Act, the federal Health Care and Education Reconciliation

Act of 2010 and any amendments to or regulations or guidance issued pursuant to those acts. (Pub. L. No. 111-148, Pub. L. No. 111-152)

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

Section 1. Title 57 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 27, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 12, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Board" means the Board of Directors of the Exchange.*

Sec. 4. *"Exchange" means the Silver State Health Insurance Exchange.*

Sec. 5. *"Executive Director" means the Executive Director of the Exchange.*

Sec. 6. *"Federal Act" means the federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and any amendments to, or regulations or guidance issued pursuant to, those acts.*

Sec. 7. *"Medical facility" has the meaning ascribed to it in NRS 449.0151.*

Sec. 8. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 9. *Except as otherwise provided in section 22 of this act, "qualified health plan" has the meaning ascribed to it in § 1301 of the Federal Act.*

Sec. 10. *"Qualified individual" means a person, including, without limitation, a minor, who:*

1. Is seeking to enroll in a qualified health plan offered to persons through the Exchange;

2. Resides in Nevada;

3. At the time of enrollment is not incarcerated, unless the person is incarcerated pending the disposition of charges; and

4. Is, and is reasonably expected to be, for the entire period for which enrollment is sought, a citizen of the United States or an alien lawfully present in the United States.

Sec. 11. *"Qualified small employer" means a small employer that chooses to make all of its full-time employees ~~f, and some or all of its part-time employees,~~ eligible for one or more qualified health plans offered through the ~~{program}~~ Exchange to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market, if the employer:*

1. *Has its principal place of business in Nevada and chooses to provide coverage through the ~~program~~ Exchange to all of its eligible employees, regardless of where those employees are employed; or*

2. *Regardless of the location of its principal place of business, chooses to provide coverage through the ~~program~~ Exchange to all of its eligible employees who are principally employed in Nevada.*

Sec. 12. "Small employer" has the meaning ascribed to it in NRS 689C.095.

Sec. 13. The Silver State Health Insurance Exchange is hereby established to:

1. *Facilitate the purchase and sale of qualified health plans in the individual market in Nevada;*

2. *Assist qualified small employers in Nevada in facilitating the enrollment and purchase of coverage and the application for subsidies for small business enrollees;*

3. *Reduce the number of uninsured persons in Nevada;*

4. *Provide a transparent marketplace for health insurance and consumer education on matters relating to health insurance; and*

5. *Assist residents of Nevada with access to programs, premium assistance tax credits and cost-sharing reductions.*

Sec. 14. 1. The Exchange shall:

(a) Create and administer a state-based health insurance exchange;

(b) Facilitate the purchase and sale of qualified health plans;

(c) Provide for the establishment of a program to assist qualified small employers in Nevada in facilitating the enrollment of their employees in qualified health plans offered in the small group market;

(d) Make only qualified health plans available to qualified individuals and qualified small employers on or after January 1, 2014; and

(e) Unless the Federal Act is repealed or is held to be unconstitutional or otherwise invalid or unlawful, perform all duties that are required of the Exchange to implement the requirements of the Federal Act.

2. The Exchange may:

(a) Enter into contracts with any person, including, without limitation, a local government, a political subdivision of a local government and a governmental agency, to assist in carrying out the duties and powers of the Exchange or the Board; and

(b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry out the duties and powers of the Exchange or the Board.

3. The Exchange is subject to the provisions of chapter 333 of NRS.

Sec. 15. 1. The governing authority of the Exchange is the Board, consisting of seven voting members and three ex officio nonvoting members.

2. Subject to the provisions of subsections 3, 4 and 5:

(a) The Governor shall appoint five voting members of the Board;

(b) The Senate Majority Leader shall appoint one voting member of the Board; and

(c) The Speaker of the Assembly shall appoint one voting member of the Board.

3. Each voting member of the Board must have:

(a) Expertise in the individual or small employer health insurance market;

(b) Expertise in health care administration, health care financing or health information technology;

(c) Expertise in the administration of health care delivery systems; ~~for~~

(d) Experience as a consumer who would benefit from services provided by the Exchange ~~for~~; or

(e) Experience as a consumer advocate, including, without limitation, experience in consumer outreach and education for those who would benefit from services provided by the Exchange.

4. When making an appointment pursuant to subsection 2, the Governor, the Majority Leader and the Speaker of the Assembly shall consider the collective expertise and experience of the voting members of the Board and shall attempt to make each appointment so that:

(a) The areas of expertise and experience described in subsection 3 are collectively represented by the voting members of the Board; and

(b) The voting members of the Board represent a range and diversity of skills, knowledge, experience and geographic and stakeholder perspectives.

5. A voting member of the Board may not be a Legislator ~~for~~ or hold any elective office in State Government. ~~for be an employee of the State or a municipality of the State.~~

6. While serving on the Board, a voting member may not be in any way affiliated with a health insurer, including, without limitation, being an employee of, consultant to or member of the board of directors of a health insurer, having an ownership interest in a health insurer or otherwise being a representative of a health insurer.

7. The following are ex officio nonvoting members of the Board who shall assist the voting members of the Board by providing advice and expertise:

(a) The Director of the Department of Health and Human Services, or his or her designee;

(b) The Director of the Department of Business and Industry, or his or her designee; and

(c) The Director of the Department of Administration, or his or her designee.

Sec. 16. 1. After the initial terms, the term of each voting member of the Board is 3 years.

2. A voting member of the Board may be reappointed to the Board.

3. *The appointing authority who appoints a voting member of the Board may remove that voting member if the voting member neglects his or her duty or commits misfeasance, malfeasance or nonfeasance in office.*

4. *A vacancy on the Board in the position of a voting member must be filled in the same manner as the original appointment.*

5. *Upon the expiration of his or her term of office, a voting member of the Board may continue to serve until he or she is reappointed or a person is appointed as a successor.*

Sec. 17. 1. *The Board shall elect a Chair and a Vice Chair from among its members.*

2. *The terms of the Chair and Vice Chair are 1 year.*

3. *The Chair and Vice Chair may be reelected to one or more terms.*

4. *If a vacancy occurs, the members of the Board shall elect a replacement Chair or Vice Chair, as applicable, for the remainder of the unexpired term.*

Sec. 18. 1. *Except as otherwise provided in subsection 2, the voting members of the Board shall serve without compensation.*

2. *If sufficient money is available from federal grant funds or revenues generated by the Exchange, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the Board or otherwise engaged in the business of the Board.*

Sec. 19. 1. *The Board shall meet:*

(a) *At least once each calendar quarter; and*

(b) *At other times upon the call of the Chair or a majority of the voting members.*

2. *A majority of the voting members of the Board constitutes a quorum for the transaction of business.*

3. *A member of the Board may not vote by proxy.*

Sec. 20. 1. *The Board may appoint subcommittees and advisory committees composed of members of the Board, former members of the Board and members of the general public who have experience with or knowledge of matters relating to health care to consider specific problems or other matters within the scope of the powers, duties and functions of the Board.*

2. *To the extent practicable, the members of such a subcommittee or advisory committee must be representative of the various geographic areas and ethnic groups of this State.*

3. *A member of a subcommittee or an advisory committee will not be compensated or reimbursed for travel or other expenses relating to any duties as a member of the subcommittee or advisory committee.*

Sec. 21. *The Board and any subcommittee or advisory committee appointed by the Board shall comply with the provisions of chapter 241 of NRS.*

Sec. 22. 1. *The Board shall:*

(a) Adopt bylaws setting forth its procedures and governing its operations;

(b) On or before June 30 and December 31 of each year, submit a written fiscal and operational report to the Governor and the Legislature, which must include, without limitation, any recommendations concerning the Exchange;

(c) On or before December 31 of each year, prepare a report for the public summarizing the activities of the Board and the contributions of the Exchange to the health of the residents of Nevada during the previous year;

(d) Provide for an annual audit of its functions and operations;

(e) Submit all reports required by federal law to the appropriate federal agency and in a timely manner; and

(f) If the Federal Act is repealed or is held unconstitutional or otherwise invalid or unlawful, define by regulation "qualified health plan" for the purposes of this act.

2. The Board may:

(a) Adopt regulations to carry out the duties and powers of the Exchange;

(b) Prepare special reports concerning the Exchange for the Governor, the Legislature and the public; and

(c) Contract for the services of such legal, professional, technical and operational personnel and consultants as the execution of its duties and powers and the operation of the Exchange may require.

3. The Board is subject to Legislative and Executive Branch audits.

Sec. 23. 1. The Board shall appoint an Executive Director of the Exchange.

2. The Executive Director:

(a) Is in the nonclassified service of the State;

(b) Is responsible to the Board and serves at the pleasure of the Board;

(c) Must have experience in the administration of health care or health insurance; and

(d) Is responsible for the administrative matters of the Board.

3. Subject to the limits of available funding, the Executive Director may appoint and remove such employees of the Exchange as are necessary for the administration of the Exchange.

4. Employees of the Exchange appointed pursuant to subsection 3 are in the nonclassified service of the State.

Sec. 24. 1. The Board and the Department of Health and Human Services shall ensure that the Exchange coordinates with Medicaid, the Children's Health Insurance Program and any other applicable state or local public programs to create a single point of entry for users of the Exchange who are eligible for such programs and to promote continuity of coverage and care.

2. *As used in this section, "Children's Health Insurance Program" has the meaning ascribed to it in NRS 422.021.*

Sec. 25. *The Department of Health and Human Services, the Division of Insurance of the Department of Business and Industry and any other relevant state agency shall work with and provide support to the Exchange as it carries out its duties and powers, including, without limitation, entering into agreements to share information and intergovernmental agreements with the Exchange.*

Sec. 26. 1. *If the Executive Director determines that the current expenses of the Exchange exceed the amount of money available because of a delay in the receipt of money from federal grants or a delay in the receipt of revenue from other sources, the Executive Director may request from the Department of Administration an advance from the State General Fund for the payment of authorized expenses.*

2. *If the Director of the Department of Administration approves a request made pursuant to subsection 1, he or she shall notify the State Controller and the Fiscal Analysis Division of the Legislative Counsel Bureau of the amount of advance approved.*

3. *Upon receiving notification pursuant to subsection 2, the State Controller shall draw his or her warrant for payment of the approved amount.*

4. *An advance made pursuant to this section must not exceed 25 percent of the revenue expected to be received from any source other than legislative appropriation during the fiscal year in which the request is made.*

5. *Any money which is advanced pursuant to this section must be repaid by the Exchange to the State General Fund not later than August 31 immediately after the end of the fiscal year during which the advance is made.*

Sec. 27. *Nothing in this act, and no action taken by the Exchange pursuant to this act, shall be construed to preempt or supersede the authority of the Commissioner to regulate the business of insurance within this State.*

Sec. 28. 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.

(n) The Silver State Health Insurance Exchange.

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) 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.

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. 29. On or before July 1, 2011:

1. The Governor shall appoint two voting members of the Board of Directors of the Silver State Health Insurance Exchange to terms commencing July 1, 2011, and expiring June 30, 2012.

2. The Governor and the Speaker of the Assembly shall each appoint one voting member of the Board of Directors of the Silver State Health Insurance Exchange to terms commencing July 1, 2011, and expiring June 30, 2013.

3. The Governor shall appoint two voting members of the Board of Directors of the Silver State Health Insurance Exchange, and the Senate Majority Leader shall appoint one voting member of the Board of Directors of the Silver State Health Insurance Exchange, to terms commencing July 1, 2011, and expiring June 30, 2014.

Sec. 30. On or before December 31, 2011, the Board of Directors of the Silver State Health Insurance Exchange shall adopt a plan for the implementation and operation of the Silver State Health Insurance Exchange and shall submit the plan to the Governor and the Legislature.

Sec. 31. Until an Executive Director of the Silver State Health Insurance Exchange is appointed pursuant to section 23 of this act, the Director of the Department of Health and Human Services is ex officio responsible for the administrative matters of the Board of Directors of the Silver State Health Insurance Exchange.

Sec. 32. This act becomes effective upon passage and approval for the purpose of appointing voting members of the Board of Directors of the Silver State Health Insurance Exchange and on July 1, 2011, for all other purposes.

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 to the list of individuals that the Governor shall appoint. It adds an individual as a consumer advocate, including, without limitation, the consumer with experience for outreach in education, and it makes other technical amendments to the bill as a whole.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 443.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 821.

"SUMMARY—Requires counties to pay **a percentage of** the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety. (BDR 14-1202)"

"AN ACT relating to probation; requiring counties to pay **a percentage of** the expense of presentence or general investigations and reports made by the Division of Parole and Probation of the Department of Public Safety; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Division of Parole and Probation of the Department of Public Safety to make presentence or general investigations and reports in certain circumstances. (NRS 176.133-176.159) This bill requires that **70 percent of** the expense of any presentence or general investigation and report made by the Division, **other than the expense of a psychosexual evaluation**, be paid by the county in which the indictment was found or the information filed. **Under this bill, a county must pay to the Division all such expenses according to a schedule established by the Division, which must require payment on at least a quarterly basis.**

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

Section 1. Chapter 176 of NRS is hereby amended by adding thereto a new section to read as follows:

~~The~~

1. Seventy percent of the expense of any presentence or general investigation and report made by the Division pursuant to ~~this section and~~ NRS ~~[176.133 to 176.159, inclusive.] 176.135 or 176.151, other than the expense of a psychosexual evaluation conducted pursuant to NRS 176.139,~~ must be paid by the county in which the indictment was found or the information filed.

2. Each county shall pay to the Division all expenses required pursuant to subsection 1 according to a schedule established by the Division, which must require payment on at least a quarterly basis.

Sec. 2. NRS 176.133 is hereby amended to read as follows:

176.133 As used in NRS 176.133 to 176.159, inclusive, ***and section 1 of this act***, unless the context otherwise requires:

1. "Person professionally qualified to conduct psychosexual evaluations" means a person who has received training in conducting psychosexual evaluations and is:

(a) A psychiatrist licensed to practice medicine in this State and certified by the American Board of Psychiatry and Neurology, Inc.;

(b) A psychologist licensed to practice in this State;

(c) A social worker holding a master's degree in social work and licensed in this State as a clinical social worker;

(d) A registered nurse holding a master's degree in the field of psychiatric nursing and licensed to practice professional nursing in this State;

(e) A marriage and family therapist licensed in this State pursuant to chapter 641A of NRS; or

(f) A clinical professional counselor licensed in this State pursuant to chapter 641A of NRS.

2. "Psychosexual evaluation" means an evaluation conducted pursuant to NRS 176.139.

3. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368, if punished as a felony;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) Abuse of a child pursuant to NRS 200.508, if the abuse involved sexual abuse or sexual exploitation and is punished as a felony;

(e) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(f) Incest pursuant to NRS 201.180;

(g) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195, if punished as a felony;

(h) Open or gross lewdness pursuant to NRS 201.210, if punished as a felony;

(i) Indecent or obscene exposure pursuant to NRS 201.220, if punished as a felony;

(j) Lewdness with a child pursuant to NRS 201.230;

(k) Sexual penetration of a dead human body pursuant to NRS 201.450;

(l) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive, if punished as a felony; or

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547 or 207.193.

Sec. 3. 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. 4. This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011 ~~11~~, for all other purposes.

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 requires that 70 percent of the expense of any presentence or general investigation report prepared by the Division of Parole and Probation be paid by the county in which the indictment was found or the information filed.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 446.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 820.

"SUMMARY—Revises provisions governing the composition of the State Department of Conservation and Natural Resources. (BDR 18-1209)"

"AN ACT relating to governmental administration; revising provisions governing the composition of the State Department of Conservation and Natural Resources; eliminating the Advisory Board on Natural Resources, the Division of Conservation Districts ~~the State Conservation Commission~~ and the Commission for the Preservation of Wild Horses; **creating the Conservation Districts Program within the Department**; transferring the duties of the ~~State Conservation Commission~~ **Division of Conservation Districts** to the ~~State Environmental Commission~~; revising certain provisions governing the administration of conservation districts; ~~repealing certain provisions governing those districts;~~ **Conservation Districts Program**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law creates of the Advisory Board on Natural Resources to advise the Director of the State Department of Conservation and Natural Resources on certain matters relating to the use of land and natural resources in this State. (NRS 232.085) **Section 35** of this bill eliminates the Advisory Board. **Section 2** of this bill requires the Director to consider input from members of the public, industries in this State and representatives of organizations, associations, groups or other entities concerned with matters of conservation and natural resources on the matters upon which the Advisory Board provided input.

Existing law creates the State Department of Conservation and Natural Resources, consisting of several divisions and commissions including the Division of Conservation Districts, the State Environmental Commission, the State Conservation Commission and the Commission for the Preservation of Wild Horses. (NRS 232.090) ~~Sections~~ **Section 3** ~~and 35~~ of this bill ~~eliminate~~ **eliminates** the Division of Conservation Districts ~~the State Conservation Commission~~ and the Commission for the Preservation of Wild Horses ~~the~~.

~~Existing law provides for the creation of conservation districts in this State to provide local planning for the conservation and development of natural resources in their areas and requires the State Conservation Commission, with the assistance of the Division of Conservation Districts, to oversee the conservation districts. (NRS 548.105, 548.175) Section 9 of this bill transfers the authority to oversee the conservation districts to the State Environmental Commission, and section 4 of this bill requires the Division of Environmental Protection to provide the Commission with assistance as necessary.~~

~~Existing law authorizes the adoption of regulations for the use of land within conservation districts, including provisions for: (1) carrying out engineering operations; (2) methods of cultivation; (3) specifications of cropping programs; (4) requirements for the retirement from cultivation of erosive areas; and (5) other measures that may assist in conservation. Existing law also provides for the establishment of boards of adjustment, which have the power to grant variances to the established land use regulations. (NRS 548.410-548.510) Section 35 of this bill repeals the authority to adopt land use regulations and eliminates the boards of adjustments. However, section 37 of this bill provides that existing land use regulations in effect on July 1, 2011, will remain in effect until amended or repealed.~~ **and creates the Conservation Districts Program within the Department. Section 14.5 of this bill transfers the duties of the Division of Conservation Districts to the Conservation Districts Program. Section 35 of this bill repeals provisions relating to the Advisory Board on Natural Resources, the Division of Conservation Districts and the Commission for the Preservation of Wild Horses.**

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

Section 1. NRS 232.055 is hereby amended to read as follows:

232.055 1. The Director shall appoint ~~{two assistant directors}~~ ***one deputy director*** of the Department and shall assign ~~{their}~~ ***his or her*** duties.

2. ~~{Each assistant}~~ ***The deputy*** director is in the unclassified service of the State.

3. Except as otherwise provided in NRS 284.143, ~~{each assistant}~~ ***the deputy*** director shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.

Sec. 2. NRS 232.070 is hereby amended to read as follows:

232.070 1. As executive head of the Department, the Director is responsible for the administration, through the divisions and other units of the Department, of all provisions of law relating to the functions of the Department, except functions assigned by law to the State Environmental Commission ~~{,}~~ **or the State Conservation Commission .** ~~{for the Commission for the Preservation of Wild Horses.}~~

2. Except as otherwise provided in subsection 4, the Director shall:

- (a) Establish departmental goals, objectives and priorities.
- (b) Approve divisional goals, objectives and priorities.
- (c) Approve divisional and departmental budgets, legislative proposals, contracts, agreements and applications for federal assistance.
- (d) Coordinate divisional programs within the Department and coordinate departmental and divisional programs with other departments and with other levels of government.
- (e) Appoint the executive head of each division within the Department.

(f) Delegate to the executive heads of the divisions such authorities and responsibilities as the Director deems necessary for the efficient conduct of the business of the Department.

(g) Establish new administrative units or programs which may be necessary for the efficient operation of the Department, and alter departmental organization and reassign responsibilities as the Director deems appropriate.

(h) From time to time adopt, amend and rescind such regulations as the Director deems necessary for the administration of the Department.

(i) Consider input from members of the public, industries and representatives of organizations, associations, groups or other entities concerned with matters of conservation and natural resources on the following:

(1) Matters relating to the establishment and maintenance of an adequate policy of forest and watershed protection;

(2) Matters relating to the park and recreational policy of the State;

(3) The use of land within this State which is under the jurisdiction of the Federal Government;

(4) The effect of state and federal agencies' programs and regulations on the users of land under the jurisdiction of the Federal Government, and on the problems of those users of land; and

(5) The preservation, protection and use of this State's natural resources.

3. Except as otherwise provided in subsection 4, the Director may enter into cooperative agreements with any federal or state agency or political subdivision of the State, any public or private institution located in or outside the State of Nevada, or any other person, in connection with studies and investigations pertaining to any activities of the Department.

4. This section does not confer upon the Director any powers or duties which are delegated by law to the State Environmental Commission ~~or the State Conservation Commission~~ or the State Conservation Commission. ~~for the Commission for the Preservation of Wild Horses,~~ but the Director may foster cooperative agreements and coordinate programs and activities involving the powers and duties of the commissions.

5. All gifts of money and other property which the Director is authorized to accept must be accounted for in the Department of Conservation and Natural Resources Gift Fund which is hereby created as a trust fund.

Sec. 3. NRS 232.090 is hereby amended to read as follows:

232.090 1. The Department consists of the Director and the following divisions:

- (a) The Division of Water Resources.
- (b) The Division of State Lands.
- (c) The Division of Forestry.
- (d) The Division of State Parks.
- (e) ~~{The Division of Conservation Districts.~~

~~—(f)~~ The Division of Environmental Protection.

~~{(g)}~~ (f) Such other divisions as the Director may from time to time establish.

2. The State Environmental Commission, the State Conservation Commission, the {Commission for the Preservation of Wild Horses,} Conservation Districts Program, the Nevada Natural Heritage Program and the Board to Review Claims are within the Department.

Sec. 4. ~~{NRS 232.136 is hereby amended to read as follows:~~

~~—232.136 1. The Division of Environmental Protection consists of the Administrator and any other necessary personnel.~~

~~—2. The Administrator is appointed by the Director and is in the unclassified service of the State.~~

~~—3. In addition to any other duties provided by law, the Administrator shall assist the State Environmental Commission in carrying out the provisions of chapter 548 of NRS.} (Deleted by amendment.)~~

Sec. 5. NRS 318.1181 is hereby amended to read as follows:

318.1181 In the case of a district created wholly or in part for the purpose of furnishing fire protection, the board may:

1. Acquire fire protection equipment and acquire, construct or improve fire protection facilities and make improvements necessary and incidental thereto;

2. Eliminate fire hazards existing within the district in the manner prescribed in NRS 474.580 for districts created pursuant to chapter 474 of NRS;

3. Clear public highways and private lands of dry grass, stubble, bushes, rubbish and other inflammable material which in its judgment constitute a fire hazard;

4. Coordinate fire protection activities with the State Forester Firewarden; ~~{and the Advisory Board on Natural Resources;} and~~

5. Cooperate with the State Forester Firewarden ~~{and the Advisory Board on Natural Resources}~~ in formulating a statewide plan for the prevention and control of fires.

Sec. 6. NRS 321.355 is hereby amended to read as follows:

321.355 1. Before any state land may be leased, exchanged, sold or contracted for sale, the State Land Registrar, in consultation with the Department of Transportation ~~{, the Advisory Board on Natural Resources}~~ and with counties and local governments, shall designate any existing routes over the land which the State Land Registrar determines to be necessary for public access to any other land that is open to public use. If such a route is designated, the land must be conveyed with a right-of-way and all rights of access and abutter's rights for the route reserved in the name of the State of Nevada. Any right-of-way reserved pursuant to this subsection may, when necessary as determined by the State Land Registrar and otherwise approved as required by law, be used by a public utility pursuant to the requirements set forth in NRS 322.050 and 322.060.

2. After the land or interest in the land is conveyed, if the route is determined by the State Land Registrar, in consultation with the Department of Transportation ~~and the Advisory Board on Natural Resources~~ and with counties and local governments, to be no longer necessary for public access to other land which is open to public use, the State Land Registrar shall, subject to the provisions of subsections 3 and 4, release the right, title and interest of the State in and to the right-of-way to the purchaser or lessee of the land, his or her assigns or successors in interest.

3. Before releasing the state's interest in the right-of-way, the State Land Registrar shall cause to be published in a newspaper of general circulation in the county where the right-of-way is located a notice of intent to release that interest. The notice must be published at least 30 days before the proposed date for the release and must contain:

- (a) A description of the location of the right-of-way;
- (b) The date upon which the release is to be effective; and
- (c) The mailing address of the State Land Registrar to which persons may send protests against the proposed release.

4. The State Land Registrar may, or upon the receipt of a written protest against the proposed release shall, hold a public hearing. The hearing must be:

- (a) Held in the county in which the right-of-way is located; and
- (b) Advertised at least 30 days before the date of the hearing in a newspaper of general circulation in the county where the right-of-way is located.

Sec. 7. NRS 321.7355 is hereby amended to read as follows:

321.7355 1. The State Land Use Planning Agency shall prepare, in cooperation with appropriate federal and state agencies and local governments throughout the State, plans or statements of policy concerning the acquisition and use of lands in the State of Nevada that are under federal management.

2. The State Land Use Planning Agency shall, in preparing the plans and statements of policy, identify lands which are suitable for acquisition for:

- (a) Commercial, industrial or residential development;
- (b) The expansion of the property tax base, including the potential for an increase in revenue by the lease and sale of those lands; or
- (c) Accommodating increases in the population of this State.

➤ The plans or statements of policy must not include matters concerning zoning or the division of land and must be consistent with local plans and regulations concerning the use of private property.

3. The State Land Use Planning Agency shall:

- (a) Encourage public comment upon the various matters treated in a proposed plan or statement of policy throughout its preparation and incorporate such comments into the proposed plan or statement of policy as are appropriate;

(b) Submit its work on a plan or statement of policy periodically for review and comment by the Land Use Planning Advisory Council ~~{the Advisory Board on Natural Resources}~~ and any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands;

(c) On or before February 1 of each odd-numbered year, prepare and submit a written report to the Legislature concerning any activities engaged in by the Agency pursuant to the provisions of this section during the immediately preceding biennium, including, without limitation:

(1) The progress and any results of its work; or

(2) Any plans or statements of policy prepared pursuant to this section; and

(d) Provide written responses to written comments received from a county or city upon the various matters treated in a proposed plan or statement of policy.

4. Whenever the State Land Use Planning Agency prepares plans or statements of policy pursuant to subsection 1 and submits those plans or policy statements to the Governor, Legislature or an agency of the Federal Government, the State Land Use Planning Agency shall include with each plan or statement of policy the comments and recommendations of:

(a) The Land Use Planning Advisory Council; *and*

(b) ~~{The Advisory Board on Natural Resources; and~~

~~—(c)}~~ Any committees of the Legislature or subcommittees of the Legislative Commission that deal with matters concerning the public lands.

5. A plan or statement of policy must be approved by the governing bodies of the county and cities affected by it before it is put into effect.

Sec. 8. NRS 407.063 is hereby amended to read as follows:

407.063 1. The Administrator may acquire for the Division, subject to the approval of the Director and with the concurrence of the Interim Finance Committee, and within the limits of legislative appropriation where money is required, real or personal property by lease or purchase. The right of eminent domain as provided by chapter 37 of NRS may be exercised by the Division. The Interim Finance Committee may clarify the legislative intent of an appropriation at the request of the Director ~~{any member of the advisory board on natural resources}~~ or the Administrator.

2. Before approving the acquisition of real property to expand the area of land that surrounds a state park and in which development is to be restricted, the Interim Finance Committee shall consult the governing body of the county, city or town in which the land to be acquired is located.

Sec. 9. ~~{NRS 445B.210 is hereby amended to read as follows:~~

~~—445B.210 The Commission may:~~

~~—1. Subject to the provisions of NRS 445B.215, adopt regulations consistent with the general intent and purposes of NRS 445B.100 to 445B.640, inclusive, to prevent, abate and control air pollution;~~

~~—2. Establish standards for air quality;~~

- ~~3. Require access to records relating to emissions which cause or contribute to air pollution.~~
- ~~4. Cooperate with other governmental agencies, including other states and the Federal Government.~~
- ~~5. Establish such requirements for the control of emissions as may be necessary to prevent, abate or control air pollution.~~
- ~~6. By regulation:~~
 - ~~(a) Designate as a hazardous air pollutant any substance which, on or after October 1, 1993, is on the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b); and~~
 - ~~(b) Delete from designation as a hazardous air pollutant any substance which, after October 1, 1993, is deleted from the federal list of hazardous air pollutants pursuant to 42 U.S.C. § 7412(b);~~
 - ~~➤ based upon the Commission's determination of the extent to which such a substance presents a risk to the public health.~~
- ~~7. Hold hearings to carry out the provisions of NRS 445B.100 to 445B.640, inclusive, except as otherwise provided in those sections.~~
- ~~8. Establish fuel standards for both stationary and mobile sources of air contaminants. Fuel standards for mobile sources of air contaminants must be established to achieve air quality standards that protect the health of the residents of the State of Nevada.~~
- ~~9. Require elimination of devices or practices which cannot be reasonably allowed without generation of undue amounts of air contaminants.~~
- ~~10. Administer the provisions of chapter 548 of NRS.] (Deleted by amendment.)~~

Sec. 10. NRS 501.020 is hereby amended to read as follows:

501.020 ~~{Except as otherwise provided in NRS 504.430 to 504.490, inclusive,}~~ "Commission" means the Board of Wildlife Commissioners.

Sec. 11. NRS 502.225 is hereby amended to read as follows:

502.225 1. There is hereby created the Advisory Board on Dream Tags, consisting of the following five members:

- (a) One member appointed by the Governor;
- (b) One member appointed by the Majority Leader of the Senate;
- (c) One member appointed by the Speaker of the Assembly;
- (d) One member appointed by the ~~{Advisory Board on}~~ **Director of the State Department of Conservation and** Natural Resources; and
- (e) The Vice Chair of the Commission, who serves as an ex officio member of the Board.

2. Each appointed member of the Board must be a resident of this State and, following the initial terms, serves a term of 2 years.

3. At its first meeting each year, the members of the Board shall elect a Chair, who shall serve until the next Chair is elected. The Board shall meet as necessary at the call of the Chair.

4. A majority of the members of the Board 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 Board.

5. While engaged in the business of the Board, to the extent of legislative appropriation, each member of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. To the extent of legislative appropriation, the Department shall provide the Board with such staff as is necessary to carry out the duties of the Board.

7. The Board shall, in accordance with the requirements of paragraph (c) of subsection 3 of NRS 502.219, determine the appropriate use of money received by a nonprofit organization from the proceeds of a Dream Tag raffle.

Sec. 12. NRS 504.490 is hereby amended to read as follows:

504.490 1. Any person, not authorized to do so, who:

(a) Removes or attempts to remove a wild horse from the public lands;
 (b) Converts a wild horse to private use;
 (c) Harasses a wild horse or, except as otherwise provided in subsection 2, kills a wild horse;

(d) Uses an aircraft or a motor vehicle to hunt any wild horse;

(e) Pollutes or causes the pollution of a watering hole on public land to trap, wound, kill or maim a wild horse;

(f) Makes or causes the remains of a wild horse to be made into any commercial product; *or*

(g) Sells a wild horse which strays onto private property, ~~or~~

~~—(h) Willfully violates a regulation adopted by the Commission for the Preservation of Wild Horses.~~

↪ is guilty of a gross misdemeanor.

2. A person who willfully and maliciously kills a wild horse is guilty of a category C felony and shall be punished as provided in NRS 193.130.

Sec. 12.3. Chapter 548 of NRS is hereby amended by adding thereto a new section to read as follows:

"Program" means the Conservation Districts Program in the State Department of Conservation and Natural Resources.

Sec. 12.7. NRS 548.015 is hereby amended to read as follows:

548.015 As used in this chapter, the following terms have the meanings attributed to them in NRS 548.020 to 548.090, inclusive, **and section 12.3 of this act**, unless the context otherwise requires.

Sec. 13. ~~NRS 548.030 is hereby amended to read as follows:~~

~~—548.030 "Commission" means the State [Conservation] Environmental Commission in the State Department of Conservation and Natural Resources.~~ **(Deleted by amendment.)**

Sec. 14. ~~NRS 548.035 is hereby amended to read as follows:~~

~~548.035 "Division" means the Division of [Conservation Districts] Environmental Protection in the State Department of Conservation and Natural Resources.] (Deleted by amendment.)~~

Sec. 14.5. NRS 548.157 is hereby amended to read as follows:

548.157 The ~~{Division of Conservation Districts in the State Department of Conservation and Natural Resources}~~ **Program** shall perform staff services for the Commission in carrying out its responsibilities under this chapter.

Sec. 15. NRS 548.175 is hereby amended to read as follows:

548.175 The Commission has the following duties and powers:

1. To carry out the policies of this State in programs at the state level for the conservation of the renewable natural resources of this State and to represent the State in matters affecting such resources.

2. To offer such assistance as may be appropriate to the supervisors of conservation districts in the carrying out of any of their powers and programs, to propose programs and to assist and guide districts in the preparation and carrying out of programs authorized under this chapter, to review district programs, to coordinate the programs of the districts and resolve any conflicts in such programs, and to facilitate, promote, assist, harmonize, coordinate and guide the programs and activities of districts as they relate to other special-purpose districts, counties and other public agencies.

3. To keep the supervisors of each of the districts informed of the activities and experience of all other districts organized pursuant to this chapter, and to facilitate an interchange of advice and experience among those districts and promote cooperation among them.

4. To secure the cooperation and assistance of the United States, any of its agencies and of other agencies of this State in the work of conservation districts.

5. To serve, along with conservation districts, as the official state agency for cooperating with the Natural Resources Conservation Service of the United States Department of Agriculture in carrying on conservation operations within the boundaries of conservation districts as created under this chapter.

6. To enlist the cooperation and collaboration of state, federal, interstate, local, public and private agencies with the conservation districts and to facilitate arrangements under which the conservation districts may serve county governing bodies and other agencies as their local operating agencies in the administration of any activity concerned with the conservation and use of renewable natural resources.

7. To make available, with the assistance of the ~~{Division,}~~ **Program**, information concerning the needs and the work of the districts and the Commission to the Director of the State Department of Conservation and Natural Resources, the Legislature, executive agencies and political subdivisions of this State, cooperating federal agencies and the general public.

8. To cooperate with and give such assistance as may be requested by cities, counties, irrigation districts, and other special-purpose districts in the State of Nevada for the purpose of cooperating with the United States through the Secretary of Agriculture in the furtherance of conservation, pursuant to the provisions of the Watershed Protection and Flood Prevention Act, 16 U.S.C. §§ 1001 et seq., and the requirements of other special programs of the United States Department of Agriculture.

9. Pursuant to procedures developed mutually by the Commission and federal, state and local agencies that are authorized to plan or administer activities significantly affecting the conservation and use of renewable natural resources, to receive from those agencies, for review and comment, suitable descriptions of their plans, programs and activities for purposes of coordination with the conservation districts' programs and to arrange for and participate in conferences necessary to avoid conflict among the plans and programs, to call attention to omissions and to avoid duplication of effort.

10. ~~f2-f~~ To submit, with the assistance of the ~~{Division}~~ **Program**, a report to the Director of the State Department of Conservation and Natural Resources whenever the Commission determines that there exists a substantial conflict between the program of a district and the proposed plans or activities directly affecting the conservation of natural resources prepared by any other local governmental unit or agency of this State.

11. ~~f3-f~~ By administrative order of the Commission, upon the written request of the board of supervisors of the conservation district or districts involved, with a showing that the request has been approved by a majority vote of the members of each of the boards involved:

(a) To transfer lands from one district established under the provisions of this chapter to another.

(b) To divide a single district into two or more districts, each of which must, thereafter, operate as a separate district under the provisions of this chapter.

(c) To consolidate two or more districts established under the provisions of this chapter into a single district under the provisions of this chapter.

(d) To inform the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program** of any action taken pursuant to this subsection for ~~this or her~~ **its** approval of any new name and the appropriate entry in the ~~{Administrative Officer's}~~ ~~{Administrator's}~~ **Program's** records of the changes made.

12. ~~f4-f~~ To authorize the change of name of any district, upon receipt by the Commission of a resolution by the board of supervisors of the district for such a change and to present the resolution to the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program** for processing and recording in accordance with the provisions of NRS 548.240.

13. ~~f5-f~~ To apply for any available grants and to accept and use any grants, gifts or donations to make available grants of money to qualified conservation districts to aid the districts in carrying out the provisions of this chapter.

Sec. 16. NRS 548.185 is hereby amended to read as follows:

548.185 1. Any 10 occupiers of land lying within the limits of the territory proposed to be organized into a district may file a petition with the ~~{State Conservation}~~ Commission asking that a conservation district be organized to function in the territory described in the petition.

2. The petition shall set forth:

(a) The proposed name of the district.

(b) That there is need, in the interest of public health, safety and welfare, for a conservation district to function in the territory described in the petition.

(c) A description of the territory proposed to be organized as a district, which shall consist of one or more townships created pursuant to chapter 257 of NRS.

(d) A request that a referendum be held within the territory so defined on the question of the creation of a conservation district in such territory, and that the Commission determine that such a district be created.

3. Where more than one petition is filed covering parts of the same territory, the ~~{State Conservation}~~ Commission may consolidate all or any such petitions.

Sec. 17. NRS 548.190 is hereby amended to read as follows:

548.190 1. Within 30 days after such a petition has been filed with the ~~{State Conservation}~~ Commission, it shall cause due notice to be given of a proposed hearing upon:

(a) The question of the desirability and necessity, in the interest of the public health, safety and welfare, of the creation of such district.

(b) The question of the appropriate boundaries to be assigned to such district.

(c) The propriety of the petition and other proceedings taken under this chapter.

(d) All questions relevant to such inquiries.

2. All occupiers of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested persons, shall have the right to attend such hearings and to be heard.

3. If it shall appear upon the hearing that it may be desirable to include, within the proposed district, territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing shall be held.

Sec. 18. NRS 548.195 is hereby amended to read as follows:

548.195 1. After such hearing, if the Commission determines, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety and welfare, for a conservation district to function in the territory considered at the hearing, the Commission shall make and record

such determination, and shall determine the township or townships to be included in the district.

2. In making such determination, the Commission shall give due weight and consideration to:

- (a) The topography of the area considered and of the State.
- (b) The composition of soils therein.
- (c) The distribution of erosion.
- (d) The prevailing land use practices.
- (e) The desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries.
- (f) The relation of the proposed area to existing watersheds and agricultural regions, and to other conservation districts already organized or proposed for organization under the provisions of this chapter.
- (g) Such other physical, geographical and economic factors as are relevant, having due regard to the legislative determinations set forth in NRS 548.095 to 548.110, inclusive.

3. After consideration of the petition and of any other evidence of interest in the organization of a district, and of the relevant factors regarding the need for a district to function in the territory being considered, the ~~{State Conservation}~~ Commission may make the determination of such need without holding a hearing.

Sec. 19. NRS 548.220 is hereby amended to read as follows:

548.220 After 6 months shall have expired from the date of entry of a determination by the ~~{State Conservation}~~ Commission that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed and action taken thereon in accordance with the provisions of this chapter.

Sec. 20. NRS 548.235 is hereby amended to read as follows:

548.235 1. The five appointed supervisors shall present to the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program an application signed by them, which states:

- (a) That a petition for the creation of the district was filed with the Commission pursuant to the provisions of this chapter, and that the proceedings specified in this chapter were taken pursuant to that petition.
- (b) That the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this chapter.
- (c) That the Commission has appointed them as supervisors.
- (d) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office.
- (e) The term of office of each of the supervisors.
- (f) The name which is proposed for the district.
- (g) The location of the principal office of the supervisors of the district.

2. The application must be subscribed and sworn to by each of the supervisors before a person authorized to take and certify oaths, who shall certify upon the application that the person personally knows the supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence.

3. The application must be accompanied by a statement by the Commission:

(a) That a petition was filed, notice issued and hearing held as required by this chapter.

(b) That the Commission did determine that there is need, in the interest of the public health, safety and welfare, for a conservation district to function in the proposed territory and did define the township or townships to be included.

(c) That notice was given and a referendum held on the question of the creation of such a district, and that a majority of the votes cast in such referendum were in favor of the creation of the district.

(d) That thereafter the Commission did determine that the operation of the proposed district is administratively practicable and feasible.

4. The statement must set forth the township or townships to be included.

Sec. 21. NRS 548.240 is hereby amended to read as follows:

548.240 1. The ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program shall examine the application and statement, and if the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program finds that the name proposed for the district is not identical with that of any other conservation district of this State or so nearly similar as to lead to confusion or uncertainty, the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program shall record them in an appropriate book of record. ~~{in his or her office.}~~

2. If the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program finds that the name proposed for the district is identical with that of any other conservation district of this State, or so nearly similar as to lead to confusion and uncertainty, the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program shall notify the Commission. The Commission shall thereupon submit a new name for the district. Upon receipt of a new name, free of such defects, the ~~{Administrative Officer}~~ ~~{Administrator}~~ Program shall record the application and statement, with the name so modified, in an appropriate book of record. ~~{in his or her office.}~~

3. When the application and statement have been recorded, the district becomes a governmental subdivision of this State and a public body corporate and politic.

4. The ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program shall make and issue to the supervisors a certificate, over ~~{his or her}~~ the signature of a member of the staff of the Program, of the organization of the district.

5. The boundaries of the district must include the territory determined by the Commission, but must not include any area included within the

boundaries of another conservation district organized under the provisions of this chapter.

Sec. 22. NRS 548.245 is hereby amended to read as follows:

548.245 1. In any suit, action or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding or action of the district, the district shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate by the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program.**

2. A copy of such a certificate issued by the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program** is admissible in evidence in any such suit, action or proceeding and is proof of the contents thereof.

Sec. 23. NRS 548.250 is hereby amended to read as follows:

548.250 1. Within 30 days after the date of issuance by the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ **Program** of a certificate of organization of a conservation district, nominating petitions may be filed with the Commission to nominate candidates for supervisors at large of the district.

2. The Commission may extend the time within which nominating petitions may be filed.

3. No nominating petition may be accepted by the Commission unless it is subscribed by three or more registered voters residing within the district.

4. Registered voters of the district may sign more than one nominating petition to nominate more than one candidate for supervisor.

Sec. 24. NRS 548.285 is hereby amended to read as follows:

548.285 1. The county clerk of the county in which a conservation district is situated, or the county clerk's designee, shall conduct a biennial nonpartisan election for the replacement of any supervisors whose terms are about to expire and shall pay all costs of that election from county funds.

2. The election must be held either at a mass meeting of electors, held in a centrally located public meeting place within the district, or as part of the general election.

3. If a mass meeting is held for the election, it must be held on one of the first 10 days of November in each even-numbered year.

4. If the election is held at a mass meeting:

(a) The chair of the district supervisors shall preside at this meeting and the secretary of the district shall keep a record of transactions at the meeting.

(b) Nominations of candidates must be made verbally from the floor.

(c) Voting must be by secret ballot. The chair of the district supervisors shall appoint three electors present to act, without pay, as judges and tellers to count the votes at the conclusion of voting.

5. If the election is held as part of the general election:

(a) Candidates are bound by the election laws governing county elections.

(b) Ballots must be provided bearing the names of candidates in alphabetical order by surnames with a square before each name and a

direction to insert an X mark in the square before the name or names of the voter's choice.

(c) At the close of polling, the sealed ballot boxes must be delivered unopened to the county clerk or the county clerk's designee, who shall appoint three electors to act, without pay, as judges and tellers to open the boxes and count the votes.

6. The result of the election must be certified to the Commission and to the [Administrative Officer of the Division] **Program** by the county clerk or the county clerk's designee, within 1 week following the date of election.

7. If a conservation district embodies land lying in more than one county, the county clerks of the respective counties shall confer and delegate to the clerk of the county having the greatest number of qualified electors of the conservation district the duty of carrying out the provisions of this section and shall reimburse that county on a pro rata basis for their respective counties' shares of the expenses of conducting the election.

Sec. 25. NRS 548.295 is hereby amended to read as follows:

548.295 1. A vacancy in the office of supervisor of a district must be filled for the unexpired term as soon as practicable after the office becomes vacant, by appointment by the remaining supervisors of the district.

2. The chair of the governing body of a district shall certify all such appointments immediately to the Commission and to the [Administrative Officer of the Division] **Program**.

Sec. 26. ~~NRS 548.405 is hereby amended to read as follows:~~

~~— 548.405 1. Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any state-owned lands, and agencies of any county or other governmental subdivision of the State which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly-owned lands, lying within the boundaries of any district organized under this chapter, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this chapter.~~

~~— 2. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands.~~

~~— [3. The provisions of land use regulations adopted pursuant to NRS 548.410 to 548.435, inclusive, shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.] **(Deleted by amendment.)**~~

Sec. 27. NRS 548.515 is hereby amended to read as follows:

548.515 1. Petitions for including additional territory within an existing district shall be filed with the ~~[State Conservation]~~ Commission.

2. The proceedings provided for in this chapter in the case of petitions to organize a district shall be observed in the case of petitions for inclusion, except that the application for a certificate of inclusion shall be signed by the chair and the secretary of the governing body of the district into which the additional territory is to be included.

3. The ~~{State Conservation}~~ Commission shall prescribe the form for the petitions, which shall be, as nearly as practicable, in the form prescribed in this chapter for petitions to organize a district.

4. Where the total number of land occupiers in the area proposed for inclusion shall be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held.

5. In referenda upon petitions for inclusion, all occupiers of land lying within the proposed additional area shall be eligible to vote.

6. The Commission shall determine whether or not such inclusion shall be made.

Sec. 28. NRS 548.520 is hereby amended to read as follows:

548.520 1. Petitions to withdraw lands from a district may be filed with the ~~{State Conservation}~~ Commission at any time.

2. The Commission shall prescribe the form of the petition, which shall be, as nearly as practicable, in the form prescribed in this chapter for petitions to organize a district.

3. Where the total number of land occupiers in the area affected by a proposed withdrawal will be less than 25, the petition may be filed when signed by a majority of the occupiers of such area, and in such case no referendum need be held.

4. In referenda upon petitions for withdrawal, all occupiers of land lying within the area affected by the proposed change in boundary shall be eligible to vote.

5. The Commission shall determine whether or not such withdrawal shall be made.

Sec. 29. NRS 548.525 is hereby amended to read as follows:

548.525 1. At any time after 5 years after the organization of a district under the provisions of this chapter, any 10 occupiers of land lying within the boundaries of such district may file a petition with the ~~{State Conservation}~~ Commission praying that the operations of the district be terminated and the existence of the district be discontinued.

2. The Commission may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof.

3. The Commission shall determine, on the basis of information presented in the petition or brought out in public hearings and on the basis of the number of petitioners in relation to the total number of occupiers of land lying within the district, whether it can render a reasonable determination of approval or denial of the petition without holding a referendum, or whether a referendum shall be held.

Sec. 30. NRS 548.530 is hereby amended to read as follows:

548.530 1. Within 60 days after a petition for discontinuance has been received by the ~~{state conservation commission,}~~ **Commission**, it shall give due notice of the holding of the referendum if one is to be held.

2. The Commission shall supervise the referendum and issue appropriate regulations governing the conduct thereof.

3. The question shall be submitted by ballots upon which the words "For terminating the existence of the (name of the conservation district to be here inserted)" and "Against terminating the existence of the (name of the conservation district to be here inserted)" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of the propositions, as the voter may favor or oppose discontinuance of such district.

4. All persons determined by the county clerk or clerks to be registered voters residing within the district are eligible to vote in such referendum.

5. No informalities in the conduct of such referendum or in any matters relating thereto invalidate the referendum or the result thereof if notice thereof was given substantially as provided in this chapter and the referendum was fairly conducted.

6. The Commission shall publish the result of the referendum.

Sec. 31. NRS 548.540 is hereby amended to read as follows:

548.540 The ~~{State Conservation}~~ Commission shall not entertain petitions for the discontinuance of any district, nor conduct referenda upon such petitions, nor make any determination pursuant to such petitions in accordance with the provisions of this chapter, more often than once in 5 years.

Sec. 32. NRS 548.545 is hereby amended to read as follows:

548.545 1. Upon receipt from the Commission of a certification that the Commission has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of NRS 548.535, the supervisors shall forthwith proceed to terminate the affairs of the district.

2. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of the sale to the State Treasurer for deposit in the State Treasury.

3. The supervisors shall thereupon file an application with the ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program for the discontinuance of the district, and shall transmit with the application the certificate of the Commission setting forth the determination of the Commission that the continued operation of the district is not administratively practicable and feasible. The application must recite that the property of the district has been disposed of and the proceeds paid over as provided in this section, and must set forth a full accounting of those properties and proceeds of the sale.

4. The ~~{Administrative Officer}~~ ~~{Administrator of the Division}~~ Program shall issue to the supervisors a certificate of dissolution and shall record the certificate in an appropriate book of records, ~~in his or her office.~~

Sec. 33. NRS 548.550 is hereby amended to read as follows:

548.550 1. Upon the issuance of a certificate of dissolution under the provisions of NRS 548.545, all ordinances and regulations theretofore adopted and in force within such district shall be of no further force and effect.

2. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The ~~{State Conservation}~~ Commission shall be substituted for the district or supervisors as a party to such contracts. The Commission shall be entitled to all benefits and shall be subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had.

3. Such dissolution shall not affect the lien of any judgment entered under the provisions of NRS 548.455, nor the pendency of any action instituted under the provisions of NRS 548.445 and 548.450, and the Commission shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

Sec. 34. NRS 561.218 is hereby amended to read as follows:

561.218 1. The Director shall appoint a person to manage the activities of the Department relating to natural resources, land use planning and the management and control of wild horses, estrays and feral livestock. The person must be appointed on the basis of merit and is in the unclassified service of the State. The Director may remove the person from office with the approval of the Board.

2. The person appointed shall:

(a) Establish and carry out a policy for the management and control of estrays and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this State.

(b) Develop cooperative agreements and working relationships with federal and state agencies and local governments for land use planning and the preservation and allocation of natural resources necessary to advance and protect the livestock and agricultural industries in this State.

(c) Cooperate with private organizations and governmental agencies to develop procedures and policies for the management and control of wild horses.

(d) Monitor gatherings of estrays and feral livestock conducted pursuant to the provisions of NRS 569.040 to 569.130, inclusive, and assist district brand inspectors in identifying estrays before they are sold or given a placement or other disposition through a cooperative agreement established pursuant to NRS 569.031.

(e) Provide the members of the general public with information relating to the activities of the Department and solicit recommendations from the members of the general public and advisory groups concerning those activities.

(f) Make assessments of the level of competition between livestock and wildlife for food and water, collect data concerning the movement of livestock and perform activities necessary to control noxious weeds.

(g) Participate in land use planning relating to the competition for food and water between livestock and wildlife to ensure the maintenance of the habitat of both livestock and wildlife.

(h) Present testimony, conduct research and prepare reports for the Governor, the Legislature, the Director and any other person or governmental entity as directed by the Director.

(i) Develop and carry out a program to educate the members of the general public concerning the programs administered by the Department, including programs for the management and control of estrays and feral livestock.

(j) Make proposals to the Director for the amendment of the regulations adopted by the Board pursuant to NRS 561.105.

(k) Perform such other duties as directed by the Director.

3. As used in this section:

(a) "Estray" has the meaning ascribed to it in NRS 569.0075.

(b) "Feral livestock" has the meaning ascribed to it in NRS 569.008.

(c) "Wild horse" ~~[has the meaning ascribed to it in NRS 504.430.]~~ ***means a horse, mare or colt which is unbranded and unclaimed and lives on public land.***

Sec. 35. NRS 232.085, 232.125, 504.430, 504.440, 504.450, 504.460, 504.470, 504.480, 504.485 ~~1, 548.115, 548.120, 548.125, 548.135, 548.140, 548.145, 548.148, 548.150, 548.155, 548.157, 548.165, 548.170, 548.180, 548.300, 548.330, 548.410, 548.415, 548.420, 548.425, 548.430, 548.435, 548.440, 548.445, 548.450, 548.455, 548.460, 548.465, 548.470, 548.475, 548.480, 548.485, 548.490, 548.495, 548.500, 548.505]~~ and ~~[548.510]~~ **548.035** are hereby repealed.

Sec. 36. The member of the Advisory Board on Dream Tags appointed by the Advisory Board on Natural Resources shall continue to serve on the Advisory Board on Dream Tags for the duration of his or her term unless removed before that date in the manner authorized by law.

Sec. 37. ~~1. The administrative regulations adopted by the State Conservation Commission pursuant to NRS 548.160 and 548.178 remain in force and are hereby transferred to become the administrative regulations of the State Environmental Commission on July 1, 2011. On and after July 1, 2011, these regulations must be interpreted in a manner so that all references to the State Conservation Commission are read and interpreted as being references to the State Environmental Commission, regardless of whether those references have been conformed pursuant to section 39 of this act at the time of interpretation.~~

~~2. Any land use regulations adopted by the State Conservation Commission for a conservation district pursuant to NRS 548.410 which are in force on July 1, 2011, remain in effect until amended or repealed.]~~
(Deleted by amendment.)

Sec. 38. As soon as is practicable after July 1, 2011, at the time the Heil Trust Fund for Wild Horses established pursuant to NRS 504.450 is abolished, the State Treasurer shall ensure that any money remaining in the Heil Trust Fund for Wild Horses is transferred to the State General Fund.

Sec. 39. The Legislative Counsel shall, in preparing:

1. The reprint and supplements to the Nevada Revised Statutes, with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer of agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

2. Supplements to the Nevada Administrative Code, appropriately change any reference to an officer or agency whose name is changed or whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer of agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 40. This act becomes effective on July 1, 2011.

LEADLINES OF REPEALED SECTIONS

232.085 Advisory Board on Natural Resources: Creation; qualifications of members; meetings; compensation; officers; duties.

232.125 Division of Conservation Districts: Administrative Officer; powers and duties.

504.430 Definitions.

504.440 Commission for Preservation of Wild Horses: Creation; membership; terms and compensation of members; meetings.

504.450 Heil Trust Fund for Wild Horses.

504.460 Appointment and duties of Administrator of Commission; prerequisites to filing of certain protests or appeals on behalf of Commission; review by Commission.

504.470 Powers and duties of Commission.

504.480 Agreements with Federal Government.

504.485 Wildlife agencies required to confer with Commission regarding consultations with Secretary of Interior.

~~548.115 Creation; number and appointment of members.~~

~~548.120 Ex officio members and alternates.~~

~~548.125 Appointment and terms of office of appointed members; vacancies.~~

~~548.135 Seal.~~

~~548.140 Chair.~~

~~548.145 Compensation of members and employees; operating expenses.~~

~~548.148 Meetings.~~

~~548.150 Quorum.~~

~~—548.155 Personnel: Employment; compensation; surety bonds; delegation of authority.~~
~~—548.157 Division of Conservation Districts in State Department of Conservation and Natural Resources to supply staff.~~
~~—548.165 Records.~~
~~—548.170 Attorney General to provide legal services.~~
~~—548.180 Cooperation of state agencies and state institutions with Commission.~~
~~—548.300 Removal from office.~~
~~—548.330 Supervisors to furnish Commission information.~~
~~—548.410 Petition; formulation; hearings; determination of whether referendum to be held.~~
~~—548.415 Proposed ordinance; notices of referendum; form of question; informalities not to invalidate referendum.~~
~~—548.420 Approval of proposed ordinance; effect of regulations.~~
~~—548.425 Procedure for amendment or repeal of regulations.~~
~~—548.430 Permissible provisions.~~
~~—548.435 Uniformity of regulations; availability to occupiers of lands within district.~~
~~—548.440 Enforcement of regulations; damages.~~
~~—548.445 Petition to district court to require observance.~~
~~—548.450 Service of process; appointment of master; hearing; order of court.~~
~~—548.455 Court to retain jurisdiction until work completed; entry of judgment for costs and expenses; judgment as lien.~~
~~—548.460 Board of adjustment: Establishment.~~
~~—548.465 Board of adjustment: Number, appointment and terms of members.~~
~~—548.470 Board of adjustment: Vacancies.~~
~~—548.475 Board of adjustment: Removal of member.~~
~~—548.480 Board of adjustment: Compensation of members and employees.~~
~~—548.485 Board of adjustment: Chair.~~
~~—548.490 Board of adjustment: Meetings; quorum.~~
~~—548.495 Board of adjustment: Rules; records.~~
~~—548.500 Board of adjustment: Commission to pay expenses.~~
~~—548.505 Petition for variance: Notice; hearing; determination of board; order.~~
~~—548.510 Procedure for review of order of board of adjustment by district court.~~

548.035 "Division" defined.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

This eliminates the Commission for the Preservation of Wild Horses and the Advisory Board for Natural Resources from the Department of Conservation and Natural Resources. This measure eliminates the Division of Conservation Districts within the Department of Conservation and Natural Resources and replaces it with the Conservation Districts Program. This is another budget implementation bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 81.

Bill read second time.

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

Amendment No. 685.

"SUMMARY—Revises various provisions relating to elections. (BDR 24-406)"

"AN ACT relating to elections; clarifying how a minor political party may be organized; revising certain requirements for petitions of referendum; revising provisions relating to counting ballots, posting voting results and recounts; providing that the residency of spouses of certain military personnel is not changed whether absent or present in this State; making various changes concerning campaign contributions and expenditures; making various other changes to provisions governing elections; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In order to qualify to place the names of candidates on the ballot, under existing law, a minor political party must have filed with the Secretary of State a certificate of existence and a list of candidates. Also, the minor political party must have: (1) at the last preceding general election, polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress; (2) been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or (3) filed a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding election for the offices of Representative of Congress. Alternatively, the minor political party may place the name of a candidate on the ballot if the minor political party has filed with the Secretary of State a certificate of existence and a petition on behalf of the candidate that it wants to place on the ballot containing a certain number of signatures. (NRS 293.1715) **Sections 16, 16.2 and 16.4** of this bill remove the option of a minor political party to place a candidate on the ballot by filing a petition on behalf of the candidate. **Sections 6 and 15-18** of this bill clarify that an organization is organized as a minor political party when it files a certificate of existence. A minor political

party must still meet the other requirements in order to qualify to place candidates on the ballot.

Sections 7-12 and 64 of this bill provide that the signature and verification requirements for initiative petitions also apply to petitions for referendum.

Existing law provides the requirements for nominating candidates for office and placing candidates on the ballot for the general election. (NRS 293.165, 293.166, 293.368) **Sections 13, 14 and 25** of this bill move the date after which no change may be made on the ballot for the general election from the first Tuesday after the primary election to the fourth Friday in June of the year in which the general election is held.

Existing law provides that if a person willfully files a declaration or acceptance of candidacy that contains a false statement, the name of the person must not appear on the ballot for the election for which the person filed the declaration or acceptance of candidacy. (NRS 293.184, 293C.1865) **Sections 19 and 32** of this bill further require that if the name of such a person appears on the ballot because the deadline for making changes to the ballot has passed, the Secretary of State, county clerk or city clerk must inform voters by posting signs at polling places that the person is disqualified from entering upon the duties of office.

Section 21 of this bill allows a person to cast a primary ballot for a major political party only if the person is a member of that major political party.

Existing law sets forth procedures for depositing absent ballots in the ballot box, including verifying the absent voter's signature that appears on the back of the return envelope or facsimile. (NRS 293.333, 293C.332) Because certain military personnel and overseas citizens may return special absent ballots via approved electronic transmission other than facsimile, **sections 23 and 33** of this bill authorize the verification of the signature of these voters by comparing the signature from the special absent ballot or the oath of the voter that must be included in the special absent ballot with that on the original application to register to vote.

Existing law sets forth the period for early voting by personal appearance at a primary or general election, which excludes Sundays and state and federal holidays. (NRS 293.3568, 293C.3568) **Sections 24 and 34** of this bill provide that state holidays are not excluded from that period.

Section 26 of this bill prohibits a county clerk from posting voting results for a statewide or multicounty race or ballot question until the Secretary of State notifies the county clerk that all polling places are closed and all votes have been cast.

Section 27 of this bill revises the procedure for demands for an election recount in a county or city using a mechanical voting system and for recounts affecting more than one county.

Existing law provides that a person does not gain or lose residence in the State by reason of his or her presence or absence while being employed in the military, naval or civil service of the United States or the State of Nevada or while engaged in the navigation of the waters of the United States or of the

high seas. (NRS 293.487) **Section 30** of this bill provides that the spouse of such a person also does not gain or lose residence in the State.

Sections 36.5 and 39.5 of this bill differentiate between "campaign expenses" and "expenditures" for purposes of campaign reporting requirements.

Section 37 of this bill requires certain persons, committees for political action, political parties and committees of political parties that expend more than \$100 for the purpose of financing certain public communications to disclose on the communication the name of the person, committee or political party that paid for the communication.

Section 41.5 of this bill prohibits a person from making a contribution to a committee for political action with the knowledge and intent that the committee for political action will contribute that money to a specific candidate which, in combination with the total contributions already made by the person for the same election, would violate the limitations on contributions in existing law.

Section 49 of this bill provides that if a committee for political action fails to register with the Secretary of State before engaging in any activity within the State, the Secretary of State may impose on the committee a civil penalty for each time the committee engages in activity without being registered.

Sections 40, 44, 45, 47, 48, 50-53, 55, 59-62 and 69 of this bill repeal the term "business entity" and remove the term from provisions governing registration and campaign contribution and expenditure reporting. These entities, however, are not exempt from the provisions because they are business organizations included within the term "person" as defined in existing law. (NRS 294A.009)

Section 54 of this bill: (1) prohibits a candidate or public officer from using campaign contributions to pay civil or criminal penalties; and (2) authorizes a candidate or public officer to use campaign contributions to pay for legal expenses that the candidate or public officer incurred in relation to a campaign or while serving in public office. Any such candidate or public officer is not required to establish a legal defense fund in order to use campaign contributions to pay for legal expenses, but **sections 29, 54, 56, 58, 59, 61 and 62** of this bill require the candidate or public officer to report the expenditure of such money on his or her campaign expenditure reports.

Section 58 of this bill adds contributions made to another candidate, a nonprofit corporation, a committee for political action or a committee for the recall of a public officer to the categories of expenditures that must be reported on campaign expenditure reports.

Section 59.5 of this bill requires the Secretary of State, for the purposes of implementing and administering the election laws, to consider whether organization of or actions taken by a group or entity are for the purpose of avoiding the limitations on campaign contributions.

Section 65 of this bill requires the affidavit executed by a circulator of a petition for initiative or referendum to include the contact information of the circulator and a statement that the circulator is at least 18 years of age.

Sections 65.5 and 66 of this bill: (1) clarify that a candidate for or person appointed to the office of Legislator is required to file a statement of financial disclosure with the Secretary of State; and (2) requires a public officer who leaves office to file a statement of financial disclosure on January 15th of the year immediately following the year in which the public officer leaves office unless the public officer leaves office before January 15 in the prior year.

Sections 67 and 68 of this bill require that candidates for city office in the cities of Carlin and Wells file declarations of candidacy at the same time as candidates for statewide office.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Central counting place" means the location designated by the county or city clerk for the compilation of election returns.*

Sec. 3. *"Undervote" means a ballot that has been cast by a voter but shows no legally valid selection for any candidate for a particular office or for a ballot question.*

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, **and sections 2 and 3 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 293.066 is hereby amended to read as follows:

293.066 "Minor political party" means any organization which ~~[qualifies]~~ **is organized** as such pursuant to NRS 293.171.

Sec. 7. NRS 293.127561 is hereby amended to read as follows:

293.127561 1. The Legislature shall establish petition districts from which signatures for a petition for initiative **or referendum** that proposes a ~~[statute, an amendment to a statute or an amendment to the Constitution of this State]~~ **constitutional amendment or statewide measure** must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to NRS 293.127562.

Sec. 8. NRS 293.127563 is hereby amended to read as follows:

293.127563 1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each petition district within the State for a petition for initiative *or referendum* that proposes a ~~{statute, an amendment to a statute or an amendment to the Constitution of this State.}~~ ***constitutional amendment or statewide measure.***

2. To determine the number of signatures required to be gathered from a petition district, the Secretary of State shall calculate the amount that equals 10 percent of the voters who voted in that petition district at the last preceding general election.

Sec. 9. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents and, in the case of a petition for *initiative or referendum* proposing a ~~{statute, an amendment to a statute or an amendment to the Constitution.}~~ ***constitutional amendment or statewide measure,*** shall tally the number of signatures for each petition district contained fully or partially within the county and forward that information to the Secretary of State.

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, the Secretary of State shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

Sec. 10. 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 *for initiative or referendum* proposing a ~~{statute, an amendment to a statute or an amendment to the Constitution.}~~ ***constitutional amendment***

or statewide measure, 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 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.

4. In the case of a petition *for initiative or referendum* proposing a ~~{statute, an amendment to a statute or an amendment to the Constitution,}~~ ***constitutional amendment or statewide measure***, 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. ~~{¶¶ In the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, 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. 11. NRS 293.1278 is hereby amended to read as follows:

293.1278 1. If the certificates received by the Secretary of State from all the county clerks establish that the number of valid signatures is less than 90 percent of the required number of registered voters, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015 and, in the case of a petition *for initiative or referendum* proposing a ~~{statute, an amendment to a statute or an amendment to the Constitution,}~~ **constitutional amendment or statewide measure**, that the petition has the minimum number of signatures required for each petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient and, in the case of a petition *for initiative or referendum* proposing a ~~{statute, an amendment to a statute or an amendment to the Constitution,}~~ **constitutional amendment or statewide measure**, that the petition has the minimum number of signatures required for each petition district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.

Sec. 12. NRS 293.1279 is hereby amended to read as follows:

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to NRS 295.055 or 306.015, the Secretary of State

shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. Except as otherwise provided in this subsection, if the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until the county clerk has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative *or referendum* that proposes a ~~statute, an amendment to a statute or an amendment to the Constitution of this State,~~ **constitutional amendment or statewide measure**, if the statistical sampling shows that the number of valid signatures in any petition district is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that petition district pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk or county clerks, if the petition district comprises more than one county, pursuant to NRS 295.055, the Secretary of State may order a county clerk to examine every signature for verification.

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk or county clerks shall determine from the records of registration what number of registered voters have signed the petition and, if appropriate, tally those signatures by petition district. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition and in determining in which petition district the voters reside, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk or county clerks shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. In the case of a petition *for initiative or referendum* to propose a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ **constitutional amendment or statewide measure**, if a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section to complete the amended certificate.

5. 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 forward to the Secretary of State the documents containing the signatures of the registered voters.

6. Except for a petition to recall a county, district or municipal officer, the petition shall be deemed filed with the Secretary of State as of the date on which the Secretary of State receives certificates from the county clerks showing the petition to be signed by the requisite number of voters of the State.

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, the Secretary of State shall immediately so notify the petitioners and the county clerks. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

8. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 13. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in April must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in March and not later than the fourth Tuesday in April. The petition may consist of more than

one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and the candidate's name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in April and on or before 5 p.m. on the ~~{first Tuesday after the primary election}~~ ***fourth Friday in June of the year in which the general election is held*** must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the ~~{first Tuesday after the primary election}~~ ***fourth Friday in June of the year in which the general election is held***. If a nominee dies after that time and date, the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the ~~{first Tuesday after the primary election}~~ ***fourth Friday in June of the year in which the general election is held***. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 14. NRS 293.166 is hereby amended to read as follows:

293.166 1. A vacancy occurring in a party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county may be filled as follows, subject to the provisions of subsections 2 and 3. The county commissioners of each county, all or part of which is included within the legislative district, shall meet to appoint a person who is of the same political party as the former nominee and who actually, as opposed to constructively, resides in the district to fill the vacancy, with the chair of the board of county commissioners of the county whose population residing within the district is the greatest presiding. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then, the boards shall meet jointly and the chairs on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a

group select one candidate, and the nominee must be chosen by drawing lots among the persons so selected.

2. No change may be made on the ballot after the ~~{first Tuesday after the primary election}~~ **fourth Friday in June** of the year in which the general election is held. If a nominee dies after that date, the nominee's name must remain on the ballot and, if elected, a vacancy exists.

3. The designation of a nominee pursuant to this section must be filed with the Secretary of State **on or** before 5 p.m. on the ~~{first Tuesday after the primary election}~~ **fourth Friday in June of the year in which the general election is held**, and the statutory filing fee must be paid with the designation.

Sec. 15. NRS 293.171 is hereby amended to read as follows:

293.171 1. To ~~{qualify}~~ **be organized** as a minor political party, an organization must file with the Secretary of State a certificate of existence which includes the:

- (a) Name of the political party;
- (b) Names of its officers;
- (c) Names of the members of its executive committee; and
- (d) Name of the person authorized to file the list of its candidates for partisan office with the Secretary of State.

2. A copy of the constitution or bylaws of the party must be affixed to the certificate.

3. A minor political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

4. The constitution or bylaws of a minor political party must provide a procedure for the nomination of its candidates in such a manner that only one candidate may be nominated for each office.

5. A minor political party whose candidates for partisan office do not appear on the ballot for the general election must file a notice of continued existence with the Secretary of State not later than the second Friday in August preceding the general election.

6. A minor political party which fails to file a notice of continued existence as required by subsection 5 ceases to exist as a minor political party in this State.

Sec. 16. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the **minor political** party ~~{has}~~ **is qualified. To qualify as a minor political party, the minor political party must have** filed a certificate of existence and **be organized pursuant to NRS 293.171, must have filed** a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party *must have* polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party ~~{has}~~ *must have* been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the ~~{second}~~ *third* Friday in ~~{June}~~ *May* preceding the general election, ~~{files}~~ *must file* a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3.—~~{The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:~~

—(a) A certificate of existence;

—(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

—(c) Not earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March, a petition on behalf of the candidate with the Secretary of State containing not less than:

—(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

—(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

—A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

—4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

~~{5.}~~ 4. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 ~~{or paragraph (e) of subsection 3}~~ with the Secretary of State before the petition may be circulated for signatures.

Sec. 16.2. NRS 293.172 is hereby amended to read as follows:

293.172 1. A petition filed pursuant to subsection 2 ~~{or 3}~~ of NRS 293.1715 may consist of more than one document. Each document of the petition must:

(a) Bear the name of the minor political party and, if applicable, the candidate and office to which the candidate is to be nominated.

(b) Include the affidavit of the person who circulated the document verifying that the signers are registered voters in this State according to his or her best information and belief and that the signatures are genuine and were signed in his or her presence.

(c) Bear the name of a county and be submitted to the county clerk of that county for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition. A challenge to the form of a document must be made in a district court in the county that is named on the document.

(d) Be signed only by registered voters of the county that is named on the document.

2. If the office to which the candidate is to be nominated is a county office, only the registered voters of that county may sign the petition. If the office to which the candidate is to be nominated is a district office, only the registered voters of that district may sign the petition.

3. Each person who signs a petition shall also provide the address of the place where he or she resides, the date that he or she signs and the name of the county in which he or she is registered to vote.

4. The county clerk shall not disqualify the signature of a voter who failed to provide all the information required by subsection 3 if the voter is registered in the county named on the document.

Sec. 16.4. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection 4, a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715; *or*

(b) Files or will file a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715, ~~for~~

~~—(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715;~~

↪ must file with the Secretary of State a list of its candidates for partisan office not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the second Friday after the first Monday in March. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. ~~[The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715.]~~ The list may be amended not later than 5 p.m. on the second Friday after the first Monday in March.

2. The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the

filing officer with whom each candidate must file his or her declaration of candidacy.

3. Each candidate on the list must file his or her declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of the minor political party is filed with the Secretary of State nor later than 5 p.m. on the second Friday after the first Monday in March.

4. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 17. NRS 293.174 is hereby amended to read as follows:

293.174 ~~{1-}~~ If the qualification of a minor political party *to place the names of candidates on the ballot pursuant to NRS 293.1715* is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in June. Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in June. A challenge pursuant to this ~~{subsection}~~ **section** must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

~~{2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in March. Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in March. A challenge pursuant to this subsection must be filed with:~~

~~—(a) The First Judicial District Court; or~~

~~—(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.}~~

Sec. 18. NRS 293.176 is hereby amended to read as follows:

293.176 1. Except as otherwise provided in subsection 2, no person may be a candidate of a major political party for partisan office in any election if the person has changed:

(a) The designation of his or her political party affiliation; or

(b) His or her designation of political party from nonpartisan to a designation of a political party affiliation,

➤ on an application to register to vote in the State of Nevada or in any other state during the time beginning on December 31 preceding the closing filing date for that election and ending on the date of that election whether or not the person's previous registration was still effective at the time of the change in party designation.

2. The provisions of subsection 1 do not apply to any person who is a candidate of a political party that ~~was~~ **is not** ~~qualified~~ **organized** pursuant to NRS 293.171 on the December 31 next preceding the closing filing date for the election.

Sec. 19. NRS 293.184 is hereby amended to read as follows:

293.184 **1.** In addition to any other penalty provided by law, if a person ~~knowingly and~~ willfully files a declaration of candidacy or acceptance of candidacy ~~which~~ **knowing that the declaration of candidacy or acceptance of candidacy** contains a false statement:

~~1. The~~

(a) Except as otherwise provided in NRS 293.165 and 293.166, the name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and

~~2. (b)~~ The person is disqualified from entering upon the duties of the office for which he or she was a candidate.

2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and county clerk must post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office.

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 293.257 is hereby amended to read as follows:

293.257 **1.** There must be a separate primary ballot for each major political party. The names of candidates for partisan offices who have designated a major political party in the declaration of candidacy or acceptance of candidacy must appear on the primary ballot of the major political party designated.

2. The county clerk may choose to place the names of candidates for nonpartisan offices on the ballots for each major political party or on a separate nonpartisan primary ballot, but the arrangement which the county clerk selects must permit all registered voters to vote on them.

3. A registered voter may cast a primary ballot for a major political party at a primary election only if the registered voter designated on his or her application to register to vote an affiliation with that major political party.

Sec. 22. (Deleted by amendment.)

Sec. 23. NRS 293.333 is hereby amended to read as follows:

293.333 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the county clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported pursuant to NRS 293.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope, ~~for~~ facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be called and checked as if the voter were voting in person;

2. The signature on the back of the return envelope or on the facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be compared with that on the original application to register to vote;

3. If the board determines that the absent voter is entitled to cast a ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and

4. The election board officers shall mark in the roster opposite the name of the voter the word "Voted."

Sec. 24. NRS 293.3568 is hereby amended to read as follows:

293.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary or general election and extends through the Friday before election day, Sundays and *federal* holidays excepted.

2. The county clerk may:

(a) Include any Sunday or *federal* holiday that falls within the period for early voting by personal appearance.

(b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

(a) On Monday through Friday:

(1) During the first week of early voting, from 8 a.m. until 6 p.m.

(2) During the second week of early voting, from 8 a.m. until 6 p.m., or until 8 p.m. if the county clerk so requires.

(b) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

(c) If the county clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the county clerk may establish.

Sec. 25. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in April, the deceased candidate's name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he or she was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, the deceased candidate shall be deemed nominated and the vacancy in the nomination must be filled as provided in

NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the ~~{first Tuesday after the primary election,}~~ ***fourth Friday in June of the year in which the general election is held,*** the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, the deceased candidate shall be deemed elected and the office to which he or she was elected shall be deemed vacant at the beginning of the term for which he or she was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 26. NRS 293.383 is hereby amended to read as follows:

293.383 1. Except as otherwise provided in ~~{subsection 2,}~~ ***this section,*** each counting board, before it adjourns, shall post a copy of the voting results in a conspicuous place on the outside of the place where the votes were counted.

2. ~~{When}~~ ***Except as otherwise provided in subsection 3, when*** votes are cast on ballots which are mechanically or electronically tabulated in accordance with the provisions of chapter 293B of NRS, the county clerk shall, as soon as possible, post copies of the tabulated voting results in a conspicuous place on the outside of the counting facility or courthouse.

3. ***The Secretary of State shall notify each county clerk as soon as is reasonably practicable when every polling place is closed and all votes have been cast. A county clerk shall not post copies of the tabulated voting results for a statewide or multicounty race or ballot question until the county clerk has received notification from the Secretary of State that all polling places are closed and all votes have been cast.***

4. Each copy of the voting results posted in accordance with subsections 1, ~~{and}~~ ***2 and 3*** must set forth the accumulative total of all the votes cast within the county or other political subdivision conducting the election and must be signed by the members of the counting board or the computer program and processing accuracy board.

Sec. 27. NRS 293.404 is hereby amended to read as follows:

293.404 1. Where a recount is demanded pursuant to the provisions of NRS 293.403, the:

(a) County clerk of each county affected by the recount shall employ a recount board to conduct the recount in the county, and shall act as chair of the recount board unless the recount is for the office of county clerk, in which case the registrar of voters of the county, if a registrar of voters has been appointed for the county, shall act as chair of the recount board. If a registrar of voters has not been appointed for the county, the chair of the

board of county commissioners, if the chair is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of county clerk, a registrar of voters has not been appointed for the county and the chair of the board of county commissioners is a candidate on the ballot, the chair of the board of county commissioners shall appoint another member of the board of county commissioners who is not a candidate on the ballot to act as chair of the recount board. A member of the board of county commissioners who is a candidate on the ballot may not serve as a member of the recount board.

(b) City clerk shall employ a recount board to conduct the recount in the city, and shall act as chair of the recount board unless the recount is for the office of city clerk, in which case the mayor of the city, if the mayor is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of city clerk and the mayor of the city is a candidate on the ballot, the mayor of the city shall appoint another member of the city council who is not a candidate on the ballot to act as chair of the recount board. A member of the city council who is a candidate on the ballot may not serve as a member of the recount board.

2. Each candidate for the office affected by the recount and the voter who demanded the recount, if any, may be present in person or by an authorized representative, but may not be a member of the recount board.

3. Except in counties or cities using a mechanical voting system, the recount must include a count and inspection of all ballots, including rejected ballots, and must determine whether those ballots are marked as required by law.

4. If a recount is demanded in a county or city using a mechanical voting system, the person who demanded the recount shall select the ballots for the office or ballot question affected from 5 ~~+~~ percent of the ***total number of precincts*** ~~+~~ ***for that particular office or ballot question***, but in no case fewer than three precincts, after notification to each candidate for the office or the candidate's authorized representative.

5. The recount board shall examine the selected ballots, including any duplicate or rejected ballots, shall determine whether the ballots have been voted in accordance with this title and shall ~~count~~ ***recount*** the valid ballots ~~by hand. In addition, a recount by computer must be made of all the selected ballots.~~ ***in the same manner in which the ballots were originally tabulated.*** If the ~~count by hand or the~~ recount ~~by computer~~ of the selected ballots ***for all 5 percent of the precincts selected*** shows a ***total combined*** discrepancy of ***all precincts selected*** equal to or greater than 1 percent or five votes, whichever is greater, for the candidate demanding the recount or the candidate who won the election according to the original canvass of the returns, or in favor of or against a ballot question, according to the original canvass of the returns, the county or city clerk, ***as applicable***, shall ***determine whether the person who demanded the recount is entitled to a recount and, if so, shall*** order a ~~count by hand~~ ***recount*** of all the ballots for that office or

ballot question. ~~{Otherwise, the county or city clerk shall order a recount by computer of all the ballots for all candidates for the office or all the ballots for the ballot question.}~~

~~{5-}~~ 6. The county or city clerk shall unseal and give to the recount board all ballots to be counted.

~~{6-}~~ 7. In the case of a demand for a recount affecting more than one county, *including, without limitation, a statewide office or a ballot question*, the demand must be made to the Secretary of State. *The person who demanded the recount shall select the ballots for the statewide office or ballot question affected from 5 percent of the total number of precincts for that particular office or ballot question after notification to each candidate for the office or the candidate's representative. The Secretary of State shall notify the county clerks {to proceed with the recount.} of the 5 percent of statewide precincts selected by the person who demanded the recount to examine the ballots in accordance with the provisions of this section and to notify the Secretary of State of the results of the recount in their respective precincts. If the separate examinations, when combined, show a total discrepancy equal to or greater than 1 percent for the candidate demanding the recount or the candidate who won the election, according to the original canvass of the returns, or in favor of or against a ballot question, according to the original canvass of the returns, the Secretary of State shall determine whether the person who demanded the recount is entitled to a recount and, if so, shall order the county or city clerk, as applicable, to recount all the ballots for that office or ballot question.*

8. *The Secretary of State may adopt regulations to carry out the provisions of this section.*

Sec. 28. (Deleted by amendment.)

Sec. 29. 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

or used to pay for legal expenses 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. 30. NRS 293.487 is hereby amended to read as follows:

293.487 No person may gain or lose residence by reason of his or her presence or absence while ~~employed~~ :

1. *Employed* in the military, naval or civil service of the United States or of the State of Nevada, or while engaged in the navigation of the waters of the United States or of the high seas ~~[- or while at]~~ *or while married to another person who is so employed or engaged;*

2. *A student at any seminary or other institution of learning* ~~[- or while an]~~ ; *or*

3. *An inmate of any public institution.*

Sec. 31. (Deleted by amendment.)

Sec. 32. NRS 293C.1865 is hereby amended to read as follows:

293C.1865 1. In addition to any other penalty provided by law, if a person ~~knowingly and~~ willfully files a declaration of candidacy or acceptance of candidacy ~~[which]~~ *knowing that the declaration of candidacy or acceptance of candidacy* contains a false statement:

~~{1. The}~~

(a) *Except as otherwise provided in NRS 293.165 or 293.166, the name of the person must not appear on any ballot for the election for which the person filed the declaration of candidacy or acceptance of candidacy; and*

~~{2.}~~ (b) The person is disqualified from entering upon the duties of the office for which he or she was a candidate.

2. *If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and city clerk must post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office.*

Sec. 33. NRS 293C.332 is hereby amended to read as follows:

293C.332 On the day of an election, the precinct or district election boards receiving the absent voters' ballots from the city clerk shall, in the presence of a majority of the election board officers, remove the ballots from the ballot box and the containers in which the ballots were transported

pursuant to NRS 293C.325 and deposit the ballots in the regular ballot box in the following manner:

1. The name of the voter, as shown on the return envelope, ~~for~~ facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be called and checked as if the voter were voting in person;

2. The signature on the back of the return envelope or on the facsimile, *special absent ballot or oath of the voter required pursuant to NRS 293.3157, as applicable*, must be compared with that on the original application to register to vote;

3. If the board determines that the absent voter is entitled to cast a ballot, the envelope must be opened, the numbers on the ballot and envelope compared, the number strip or stub detached from the ballot and, if the numbers are the same, the ballot deposited in the regular ballot box; and

4. The election board officers shall mark in the roster opposite the name of the voter the word "Voted."

Sec. 34. NRS 293C.3568 is hereby amended to read as follows:

293C.3568 1. The period for early voting by personal appearance begins the third Saturday preceding a primary city election or general city election, and extends through the Friday before election day, Sundays and *federal* holidays excepted.

2. The city clerk may:

- (a) Include any Sunday or *federal* holiday that falls within the period for early voting by personal appearance.

- (b) Require a permanent polling place for early voting to remain open until 8 p.m. on any Saturday that falls within the period for early voting.

3. A permanent polling place for early voting must remain open:

- (a) On Monday through Friday:

- (1) During the first week of early voting, from 8 a.m. until 6 p.m.

- (2) During the second week of early voting, from 8 a.m. until 6 p.m., or until 8 p.m. if the city clerk so requires.

- (b) On any Saturday that falls within the period for early voting, for at least 4 hours between 10 a.m. and 6 p.m.

- (c) If the city clerk includes a Sunday that falls within the period for early voting pursuant to subsection 2, during such hours as the city clerk may establish.

Sec. 35. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 36 to 38, inclusive, of this act.

Sec. 36. *"Advocates expressly" or "expressly advocates" means that a communication, taken as a whole, is susceptible to no other reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate or group or candidates or a question or group of questions on the ballot at a primary election, primary city election, general election, general city election or special election. A communication does not have to include the words "vote for," "vote against," "elect,"*

"support" or other similar language to be considered a communication that expressly advocates the passage or defeat of a candidate or a question.

Sec. 36.5. "Campaign expenses" means:

1. All expenses incurred by a candidate for a campaign, including, without limitation:

- (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) Expenses related to a legal defense fund; and*
- (j) Contributions made to another candidate, a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225, a committee for political action that is registered or required to be registered pursuant to NRS 294A.230 or a committee for the recall of a public officer that is registered or required to be registered pursuant to NRS 294A.250.*

2. Expenditures, as defined in NRS 294A.004.

Sec. 37. 1. A person, committee for political action, political party or committee sponsored by a political party that expends more than \$100 for the purpose of financing a communication through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising that:

(a) Advocates expressly the election or defeat of a clearly identified candidate or group of candidates; or

(b) Solicits a contribution through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising,

↪ shall disclose on the communication the name of the person, committee for political action, political party or committee sponsored by a political party that paid for the communication.

2. If a communication described in subsection 1 is approved by a candidate, in addition to the requirements of subsection 1, the communication must state that the candidate approved the communication and disclose the street address, telephone number and Internet address, if any, of the person, committee for political action, political party or committee sponsored by a political party that paid for the communication.

3. A person, committee for political action, political party or committee sponsored by a political party that has an Internet website available for viewing by the general public or that sends out an electronic mailing to more than 500 people that:

(a) Advocates expressly the election or defeat of a clearly identified candidate or group of candidates; or

(b) Solicits a contribution through any television or radio broadcast, newspaper, magazine, outdoor advertising facility, mailing or any other type of general public political advertising,

↪ shall disclose on the Internet website or electronic mailing, as applicable, the name of the person, committee for political action, political party or committee sponsored by a political party.

4. The disclosures and statements required pursuant to this section must be clear and conspicuous, and easy to read or hear, as applicable.

Sec. 38. (Deleted by amendment.)

Sec. 39. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~{294A.003}~~ **294A.004** to 294A.009, inclusive, *and sections 36 and 36.5 of this act* have the meanings ascribed to them in those sections.

Sec. 39.5. NRS 294A.004 is hereby amended to read as follows:

294A.004 ~~{ "Campaign expenses" and "expenditures" mean: }~~
"Expenditures" means:

1. Those expenditures made for advertising on television, radio, billboards, posters and in newspapers; and

2. All other expenditures made,

↪ to advocate expressly the election or defeat of a clearly identified candidate or group of candidates or the passage or defeat of a clearly identified question or group of questions on the ballot, including any payments made to a candidate or any person who is related to the candidate within the second degree of consanguinity or affinity.

Sec. 40. 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;

(3) Committee for political action, political party ~~{ }~~ **or** 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. 41. (Deleted by amendment.)

Sec. 41.5. NRS 294A.112 is hereby amended to read as follows:

294A.112 1. A person shall not:

(a) Make a contribution in the name of another person;
 (b) Knowingly allow his or her name to be used to cause a contribution to be made in the name of another person or assist in the making of a contribution in the name of another person;

(c) Knowingly assist a person to make a contribution in the name of another person; ~~or~~

(d) Knowingly accept a contribution made by a person in the name of another person ~~or~~; **or**

(e) Make a contribution to a committee for political action with the knowledge and intent that the committee for political action will contribute that money to a specific candidate which, in combination with the total contributions already made by the person for the same election, would violate the limitations on contributions set forth in this chapter.

2. As used in this section, "make a contribution in the name of another person" includes, without limitation:

(a) Giving money or an item of value, all or part of which was provided ***or reimbursed to the contributor*** by another person, without disclosing the source of the money or item of value to the recipient at the time the contribution is made; and

(b) Giving money or an item of value, all or part of which belongs to the person who is giving the money or item of value, and claiming that the money or item of value belongs to another person.

Sec. 42. (Deleted by amendment.)

Sec. 43. (Deleted by amendment.)

Sec. 44. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that 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, and every committee for political action, political party ~~or~~ **and** committee sponsored by a political party ~~and business entity~~ which ***receives contributions in excess of \$100 or*** makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee ~~or~~ **or** political party, ~~or business entity,~~ for the

period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the person, committee ~~{}~~ or political party ~~{or business entity}~~ beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee ~~{}~~ or political party ~~{or business entity}~~ described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election 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 or primary city election for that office, 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 that office, 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 that office, 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 \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$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 committee ~~{}~~ or political party ~~{or business entity}~~ 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 \$100 and contributions which a contributor has made cumulatively in excess of \$100 since the beginning of the current reporting period.

4. Every person, committee ~~{}~~ or political party ~~{or business entity}~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election 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 or primary city election for that office, 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 that office, 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 \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$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 committee ~~{ } or political party for business entity~~ under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee ~~{ } or political party for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate 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 \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$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 committee ~~{ } or political party for business entity~~ under penalty of perjury.

6. Every person, committee ~~{ } or political party for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$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 committee ~~{ } or political party for business entity~~ 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 of contributions required pursuant to this section must be filed with:

(a) If the candidate is elected from one county, the county clerk of that county;

(b) If the candidate is elected from one city, the city clerk of that city; or

(c) If the candidate is elected from more than one county or city, the Secretary of State.

8. A person ~~{or entity}~~, **committee or political party** may file the report with 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. 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.

10. Every person, committee ~~{}~~ **or** political party ~~{or business entity}~~ described in subsection 1 shall file a report required by this section even if the person, committee ~~{}~~ **or** political party ~~{or business entity}~~ receives no contributions.

Sec. 45. 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 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 , ~~{or business entity,}~~ 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 received during that period and contributions received during the period from a contributor which cumulatively exceed \$1,000. 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}~~ under penalty of perjury. The provisions of this subsection apply to the person ~~{}~~ **or** group of persons : ~~{or business entity:}~~

(a) Each year in which:

(1) An election or city election is held for each question for which the person ~~or~~ **or** group of persons ~~for business entity~~ advocates passage or defeat; or

(2) A person ~~or~~ **or** group of persons ~~for 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 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 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 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 ~~or~~ **or** group of persons ~~for business entity~~ 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 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. 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 ~~for business entity~~ 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 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 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 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 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 ~~{,}~~ **or** group of persons ~~for business entity}~~ 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 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. 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 ~~for business entity}~~ 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 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 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. 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 ~~for business entity~~ under penalty of perjury.

6. Every 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 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 ~~for business entity~~ 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,~~ 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. 46. (Deleted by amendment.)

Sec. 47. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that 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, and every committee for political action, political party ~~{}~~ *or* committee sponsored by a political party ~~{or business entity}~~ which *receives contributions in excess of \$100 or* makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee ~~{}~~ *or* political party, ~~{or business entity,}~~ 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 the candidate, the group of candidates or a candidate in the group of candidates in excess of \$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 committee ~~{}~~ *or* political party ~~{or business entity}~~ under penalty of perjury. The provisions of this subsection apply to the person, committee ~~{}~~ *or* political party ~~{or business entity}~~ beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee ~~{}~~ *or* political party ~~{or business entity}~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election 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 or primary city election for that office, 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 that office, 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 that office, for the period from 11 days before the general election or general city election through the June 30 of that year,

➤ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$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 committee ~~[-] or~~ political party ~~for business entity~~ under penalty of perjury.

3. Every person, committee ~~[-] or~~ political party ~~for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election 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 or primary city election for that office, 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 that office, 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 the candidate, the group of candidates or a candidate in the group of candidates in excess of \$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 committee ~~[-] or~~ political party ~~for business entity~~ under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee ~~[-] or~~ political party ~~for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate 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 the candidate, the group of candidates or a candidate in the group of candidates in excess of \$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 committee ~~[-] or~~ political party ~~for business entity~~ under penalty of perjury.

5. Every person, committee ~~[-] or~~ political party ~~for business entity~~ described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a

candidate in the group of candidates in excess of \$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 committee ~~or~~ ~~or~~ political party ~~or~~ ~~business entity~~ 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 must be filed with:

(a) If the candidate is elected from one county, the county clerk of that county;

(b) If the candidate is elected from one city, the city clerk of that city; or

(c) If the candidate is elected from more than one county or city, the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. 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. 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.

10. Every person, committee ~~or~~ ~~or~~ political party ~~or business entity~~ described in subsection 1 shall file a report required by this section even if the person, committee ~~or~~ ~~or~~ political party ~~or business entity~~ receives no contributions.

Sec. 48. 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 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,

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 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 ~~for business entity~~ under penalty of perjury. The provisions of this subsection apply to the person ~~or~~ group of persons : ~~for business entity~~;

(a) Each year in which:

(1) An election or city election is held for a question for which the person ~~or~~ group of persons ~~for business entity~~ advocates passage or defeat; or

(2) A person ~~or~~ group of persons ~~for 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 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 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 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 ~~or~~ group of persons ~~for business entity~~ 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 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}~~ 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 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 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 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 ~~{,}~~ **or** group of persons ~~{or business entity}~~ 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 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}~~ 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 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 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}~~ under penalty of perjury.

5. Every 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 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 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}~~ 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. 49. 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 amended form for registration within 30 days after any change in the information contained in the form for registration.

4. The Secretary of State shall include on the Secretary of State's Internet website the information required pursuant to subsection 2.

5. *For purposes of the civil penalty that the Secretary of State may impose pursuant to NRS 294A.420 for violating the provisions of subsection 1, if a committee for political action fails to register with the Secretary of State pursuant to subsection 1, each time a committee for political action engages in any activity in this State constitutes a separate violation of subsection 1 for which the Secretary of State may impose a civil penalty.*

Sec. 50. NRS 294A.281 is hereby amended to read as follows:

294A.281 1. Each 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, before engaging in any such advocacy in this State, shall file a statement of organization with the Secretary of State as provided in subsection 2.

2. Each statement of organization must include:

- (a) The name of the person ~~or~~ **or** group of persons ; ~~for business entity;~~
- (b) The purpose for which the person ~~or~~ **or** group of persons ~~for business entity~~ is organized;
- (c) The names and addresses of any officers of the person ~~or~~ **or** group of persons ; ~~for business entity;~~
- (d) If the person ~~or~~ **or** group of persons ~~for business entity~~ is affiliated with or is retained by any other person ~~or~~ **or** group ~~for business entity~~ for the

purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name and address of each such other person ~~{-}~~ or group ; ~~{-}~~ ~~for business entity;~~ and

(e) The name, address and telephone number of the registered agent of the person ~~{-}~~ or group of persons . ~~{-}~~ ~~for business entity;~~

3. A person ~~{-}~~ or group of persons ~~{-}~~ ~~for business entity;~~ which has filed a statement of organization pursuant to this section shall file an amended statement with the Secretary of State within 30 days of any changes to the information required pursuant to subsection 2.

Sec. 51. NRS 294A.282 is hereby amended to read as follows:

294A.282 Each 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 shall appoint and keep within this State a registered agent, as provided in NRS 14.020, who must be a natural person who resides in this State.

Sec. 52. NRS 294A.283 is hereby amended to read as follows:

294A.283 1. Every 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 shall, not later than the dates listed in subsection 2, report:

(a) Each campaign contribution in excess of \$1,000 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed \$1,000;

(c) Each expenditure in excess of \$1,000 the person ~~{-}~~ or group of persons ~~{-}~~ ~~for business entity;~~ makes during each period described in subsection 2; and

(d) The total amount of money the person ~~{-}~~ or group of persons ~~{-}~~ ~~for business entity;~~ has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person ~~{-}~~ or group of persons ~~{-}~~ ~~for business entity;~~ required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. 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 each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and provided by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons ~~for business entity~~ under penalty of perjury.

6. A person ~~or~~ **or** group of persons ~~for business entity~~ may mail or transmit each report to the Secretary of State by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.

7. A report shall be deemed to be filed with the Secretary of State:

(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 Secretary of State if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 53. NRS 294A.284 is hereby amended to read as follows:

294A.284 1. Each 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 that provides compensation to persons to circulate petitions shall report to the Secretary of State:

(a) The number of persons to whom such compensation is provided;

(b) The least amount of such compensation that is provided and the greatest amount of such compensation that is provided; and

(c) The total amount of compensation provided.

2. The Secretary of State shall make public any information received pursuant to this section.

Sec. 54. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. ***Any candidate or public officer may establish a legal defense fund.*** 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. Notwithstanding the provisions of this section, a candidate or public officer may use campaign contributions to pay for any legal expenses that the candidate or public officer incurs in relation to a campaign or serving in public office without establishing a legal defense fund. Any such candidate or public officer shall report any expenditure of campaign contributions to pay for legal expenses in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360. A candidate or public officer shall not use campaign contributions to satisfy a civil or criminal penalty imposed by law.

Sec. 55. 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 ~~+~~ **or** committee ~~{or-business-entity}~~ required to report expenditures pursuant to NRS 294A.210,

➤ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person, party ~~+~~ **or** committee ~~{or-business-entity}~~ 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. 56. NRS 294A.350 is hereby amended to read as follows:

294A.350 1. Every candidate for state, district, county, municipal or township office shall file the reports of campaign contributions and expenses required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 and reports of contributions received by and expenditures made from a legal defense fund *or used to pay legal expenses* required by NRS 294A.286, even though the candidate:

- (a) Withdraws his or her candidacy;
- (b) Receives no campaign contributions;
- (c) Has no campaign expenses;
- (d) Is removed from the ballot by court order; or
- (e) Is the subject of a petition to recall and the special election is not held.

2. A candidate who withdraws his or her candidacy pursuant to NRS 293.202 may file simultaneously all the reports of campaign contributions and expenses required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 and the report of contributions received by and expenditures made from a legal defense fund *or used to pay legal expenses* required by NRS 294A.286, so long as each report is filed on or before the last day for filing the respective report pursuant to NRS 294A.120, 294A.200 or 294A.360.

Sec. 57. (Deleted by amendment.)

Sec. 58. 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, 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) *Expenses related to a legal defense fund;*

(j) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid;

(k) *Contributions made to another candidate, a nonprofit corporation that is registered or required to be registered pursuant to NRS 294A.225, a*

committee for political action that is registered or required to be registered pursuant to NRS 294A.230 or a committee for the recall of a public officer that is registered or required to be registered pursuant to NRS 294A.250; and

~~{(j)}~~ (i) 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.

Sec. 59. 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 *or used to pay legal expenses* 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 ~~{}~~ and 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 ~~{}~~ or group ~~{or business entity}~~ that is required to use the form.

Sec. 59.5. NRS 294A.380 is hereby amended to read as follows:

294A.380 1. The Secretary of State may adopt and promulgate regulations, prescribe forms in accordance with the provisions of this chapter and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.

2. For the purposes of implementing and administering the provisions of this chapter ~~: {regulating committees for political action;}~~

(a) The Secretary of State shall ~~{, in determining whether an entity or group is a committee for political action,}~~ consider a group's or entity's division or separation into units, sections or smaller groups only if it appears that such division or separation was for a purpose other than for avoiding the reporting requirements ~~{or}~~ or the limitations on contributions set forth in this chapter.

(b) The Secretary of State shall ~~{, in determining whether an entity or group is a committee for political action,}~~ disregard any action taken by a group or entity that would otherwise constitute a committee for political action if it appears such action is taken for the purpose of avoiding the

reporting requirements ~~to~~ ***or the limitations on contributions set forth in*** this chapter.

Sec. 60. 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 ~~to~~ ***or*** political party ~~for 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. 61. 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 ~~to~~ ***or*** a committee for the recall of a public officer pursuant to NRS 294A.250 ; ~~for 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 ***or used to pay legal expenses*** 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 ***or section 37 of this act*** 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 ***or used to pay legal expenses*** 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. 62. 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, ***and section 37 of this act***, 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 ~~for 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 ~~or~~ ~~or~~ committee sponsored by a political party ~~for 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 ~~or~~ *used to pay legal expenses*.

Sec. 63. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person 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.270, 294A.280, 294A.283, 294A.286 or 294A.360 *or section 37 of this act* 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 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 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.270, 294A.280, 294A.283, 294A.286, 294A.300, 294A.310 or 294A.360]~~ **this chapter** 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 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. 64. NRS 295.012 is hereby amended to read as follows:

295.012 A petition for initiative **or referendum** that proposes a ~~[statute, an amendment to a statute or an amendment to the Constitution]~~ **constitutional amendment or statewide measure** must be proposed by a number of registered voters from each petition district in the State that is at least equal to 10 percent of the voters who voted in that petition district at the last preceding general election.

Sec. 65. NRS 295.0575 is hereby amended to read as follows:

295.0575 A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum may consist of

more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

1. That the circulator personally circulated the document;
2. The number of signatures thereon;
3. That all the signatures were affixed in the circulator's presence; ~~{and}~~
4. That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded ~~{}~~ ;

5. *The address and contact information of the circulator; and*

6. *That the circulator is 18 years of age or older.*

Sec. 65.5. NRS 281A.600 is hereby amended to read as follows:

281A.600 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office ~~{}~~ *or if the public officer was appointed to the office of Legislator*, the public officer shall file with the Commission a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of ~~each~~ :

(1) Each year of the term, including the year ~~{the term expires.}~~ in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

➡ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which the person is required to file a statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:

(a) The name of each public officer who failed to file a statement of financial disclosure within the period before the notice is sent;

(b) The name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed a statement of financial disclosure, the name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the Commission:

(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 Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 66. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in subsection 2, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking, *each candidate for the office of Legislator* and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of ~~each~~ :

(1) Each year of the term, including the year [the term expires.] in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

↪ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

(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 Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.

7. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

Sec. 67. Section 5.015 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, as added by chapter 493, Statutes of Nevada 2009, at page 2937, is hereby amended to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~not less than 5 days or more than 15 days before the day of the primary election held pursuant~~

~~to the provisions of NRS 293.175.]~~ ***as provided by the election laws of this State.*** The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 68. Section 5.015 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, as added by chapter 493, Statutes of Nevada 2009, at page 2938, is hereby amended to read as follows:

Sec. 5.015 Filing of declarations of candidacy.

1. A candidate to be voted for at the general election must file a declaration of candidacy with the City Clerk ~~not less than 5 days or more than 15 days before the day of the primary election held pursuant to the provisions of NRS 293.175.]~~ ***as provided by the election laws of this State.*** The City Clerk shall charge and collect from the candidate and the candidate must pay to the City Clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the City Council by ordinance or resolution.

2. If, due to the death or ineligibility of or withdrawal by a candidate, a vacancy occurs in a nomination after the close of filing and any applicable period for withdrawal of candidacy, the candidate's name must remain on the ballot for the general election and, if elected, a vacancy exists.

Sec. 69. NRS 294A.003 and 294A.227 are hereby repealed.

TEXT OF REPEALED SECTIONS

294A.003 "Business entity" defined. "Business entity" means any corporation, company or other form of business organization. The term does not include a business entity for which:

1. The owners, investors, officers, directors, members or other organizers of the entity are disclosed in any public record; or

2. The business purpose of the entity is disclosed in a public record that clearly identifies a specific business in a manner that is verifiable.

294A.227 Registration; publication of information relating to registration.

1. A business entity shall register with the Secretary of State by submitting the completed form described in subsection 2 before it engages in any of the following activities in this State:

(a) Soliciting or receiving contributions from any other person, group or entity;

(b) Making contributions to candidates or other persons; or

(c) Making expenditures,

↳ designed to affect the outcome of any primary election, primary city election, general election, general city election, special election or question on the ballot.

2. The form must require:

- (a) The name of the business entity;
- (b) The purpose for which it was organized;
- (c) The names and addresses of each owner, investor, officer, director, member or other organizer of the entity;
- (d) If the business entity is affiliated with any other organization, the name, address and telephone number of each such organization;
- (e) The name, address and telephone number of its registered agent, if any;
- (f) A designation of the activities listed in subsection 1 in which it intends to engage; and
- (g) Any other information deemed necessary by the Secretary of State.

3. The Secretary of State shall, in a timely manner, include on the portion of the Secretary of State's Internet website that is devoted to information concerning elections and campaigns the information required pursuant to subsection 2.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 685 authorizes the Secretary of State to consider whether a group's activities were for the purpose of avoiding contribution limits as well as reporting requirements.

Amendment adopted.

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

Assembly Bill No. 136.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 693.

"SUMMARY—Revises provisions governing credits for offenders sentenced for certain crimes. (BDR 16-634)"

"AN ACT relating to offenders; revising provisions governing credits for offenders sentenced for certain crimes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that certain credits to the sentence of an offender convicted of certain category C, D or E felonies must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. ~~It~~ **, except in certain circumstances.** (NRS 209.4465) **This bill adds to the exceptions that an offender who has been convicted of being a habitual criminal or a habitual felon may not have credits applied to both the minimum and**

maximum term imposed by the sentence. This bill **further** provides that an offender convicted of ~~[certain]~~ a category B ~~[felonies]~~ **felony** also qualifies to have certain credits deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and from the maximum term imposed by the sentence. ~~[. However, an offender who has been convicted of being a habitual criminal, a habitual felon or a habitually fraudulent felon does not qualify for such credits.]~~ **, except in certain circumstances.**

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

Section 1. NRS 209.4465 is hereby amended to read as follows:

209.4465 1. An offender who is sentenced to prison for a crime committed on or after July 17, 1997, who has no serious infraction of the regulations of the Department, the terms and conditions of his or her residential confinement or the laws of the State recorded against the offender, and who performs in a faithful, orderly and peaceable manner the duties assigned to the offender, must be allowed:

(a) For the period the offender is actually incarcerated pursuant to his or her sentence;

(b) For the period the offender is in residential confinement; and

(c) For the period the offender is in the custody of the Division of Parole and Probation of the Department of Public Safety pursuant to NRS 209.4886 or 209.4888,

↳ a deduction of 20 days from his or her sentence for each month the offender serves.

2. In addition to the credits allowed pursuant to subsection 1, the Director may allow not more than 10 days of credit each month for an offender whose diligence in labor and study merits such credits. In addition to the credits allowed pursuant to this subsection, an offender is entitled to the following credits for educational achievement:

(a) For earning a general educational development certificate, 60 days.

(b) For earning a high school diploma, 90 days.

(c) For earning his or her first associate degree, 120 days.

3. The Director may, in his or her discretion, authorize an offender to receive a maximum of 90 days of credit for each additional degree of higher education earned by the offender.

4. The Director may allow not more than 10 days of credit each month for an offender who participates in a diligent and responsible manner in a center for the purpose of making restitution, program for reentry of offenders and parolees into the community, conservation camp, program of work release or another program conducted outside of the prison. An offender who earns credit pursuant to this subsection is eligible to earn the entire 30 days of credit each month that is allowed pursuant to subsections 1 and 2.

5. The Director may allow not more than 90 days of credit each year for an offender who engages in exceptional meritorious service.

6. The Board shall adopt regulations governing the award, forfeiture and restoration of credits pursuant to this section.

7. Except as otherwise provided in subsection 8, credits earned pursuant to this section:

(a) Must be deducted from the maximum term imposed by the sentence; and

(b) Apply to eligibility for parole unless the offender was sentenced pursuant to a statute which specifies a minimum sentence that must be served before a person becomes eligible for parole.

8. Credits earned pursuant to this section by an offender who has not been convicted of:

(a) Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim;

(b) A sexual offense that is punishable as a felony;

(c) A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony; ~~for~~

(d) *Being a habitual criminal pursuant to NRS 207.010, a habitual felon pursuant to NRS 207.012 or a habitually fraudulent felon pursuant to NRS 207.014; or*

(e) ~~For~~ Except as otherwise provided in subsection 9, a category A or B felony,

↪ apply to eligibility for parole and must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence.

9. Credits earned by an offender who has been convicted of a category B felony apply to eligibility for parole, must be deducted from the minimum term imposed by the sentence until the offender becomes eligible for parole and must be deducted from the maximum term imposed by the sentence if the offender:

(a) Has not been convicted of an offense listed in paragraphs (a) to (d), inclusive, of subsection 8;

(b) Has not served three or more separate terms of imprisonment for three separate felony convictions in this State;

(c) Is not serving a sentence for which an additional penalty was imposed for the use of a firearm pursuant to NRS 193.165; and

(d) Is not serving a sentence for violating the provisions of NRS 202.360.

Sec. 2. For the purpose of calculating the credits earned by an offender pursuant to NRS 209.4465, the amendatory provisions of section 1 of this act must be applied:

1. Retroactively to January 1, 2005, to reduce the minimum term of imprisonment of an offender described in ~~subsection~~ **subsections 8 and 9** of NRS 209.4465, as amended by section 1 of this act, who was placed in the custody of the Department of Corrections before January 1, 2012, and who remains in such custody on January 1, 2012.

2. Retroactively to January 1, 2011, to reduce the maximum term of imprisonment of an offender who was placed on parole before January 1, 2012.

3. In the manner set forth in NRS 209.4465 for all offenders in the custody of the Department of Corrections commencing on January 1, 2012, and for all offenders who are on parole commencing on January 1, 2012.

Sec. 3. This act becomes effective on January 1, 2012.

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 to the list of exceptions from which a category B felony offender may not apply certain credits toward parole. Specifically, the credits are not applied if the offender has served three or more separate terms of imprisonment for three separate felony convictions in Nevada, is serving a sentence for which an additional penalty was imposed for use of a firearm, and is serving a sentence for being a felon in possession of a firearm.

Amendment adopted.

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

Assembly Bill No. 242.

Bill read second time.

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

Amendment No. 745.

"SUMMARY—Requires ~~for a quasi-public organization that receives money from a state agency~~ **certain organizations** to make available certain information. (BDR 31-67)"

"AN ACT relating to state financial administration; requiring each ~~quasi-public~~ **designated** organization that receives money from ~~a state agency~~ **the Department of Health and Human Services** to make available certain information ~~to the public and to make reports biannually to the Department; requiring the Department to submit those reports to the Director of the Legislative Counsel Bureau;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain governmental entities to report quarterly to the Interim Finance Committee regarding the taxes and fees that were legally due to be paid to the governmental entity, the taxes and fees that the governmental entity was actually able to collect, and the taxes and fees that the governmental entity failed to collect or otherwise did not collect. (Chapter 238, Statutes of Nevada 2009, pp. 970-71) This bill requires each ~~quasi-public~~ **designated** organization that receives money from ~~a state agency~~ **the Department of Health and Human Services** in the form of a donation, gift, grant or other conveyance to: (1) make certain information concerning the organization available on an Internet website; and (2) **make certain reports to the Department every 6 months for the period**

commencing on July 1, 2011, and ending on June 30, 2013. This bill requires the Department to provide copies of ~~certain~~ those reports to the Director of the Legislative Counsel Bureau. This bill defines the term ~~["quasi-public]~~ "designated organization" for the purposes of the bill to mean: (1) a nonprofit organization that qualifies for tax-exempt status under 26 U.S.C. § 501(c); or (2) any entity ~~that~~ which receives money by way of a grant, contract or similar agreement for the purpose of providing to persons services that are within the purview of the Department, and which is created by or pursuant to an interlocal agreement. The provisions of this bill sunset on July 31, 2013.

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

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

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. 1. ~~If a ~~quasi-public]~~ designated organization receives money from ~~a state agency]~~ the Department in the form of a donation, gift, grant or other conveyance, the following information must be included on the Internet website of the ~~quasi-public]~~ designated organization or, if the organization does not have a website, on the website of the ~~state agency from which the organization received money in the form of a donation, gift, grant or other conveyance.]~~ Department:~~

(a) The names and terms of the persons on the board of directors or other governing body of the ~~quasi-public]~~ designated organization;

(b) The most recent annual report of the ~~quasi-public]~~ designated organization; and

(c) The mission statement or other statement of purpose of the ~~quasi-public]~~ designated organization.

2. ~~[Except as otherwise provided in this subsection, if a quasi-public organization is required by law to]~~ For a period of 2 years commencing on July 1, 2011, and ending on June 30, 2013, the Department shall require, as part of any grant, contract or similar agreement pursuant to which a designated organization provides to persons services that are within the purview of the Department, that the designated organization submit a report to ~~a state agency from which the organization receives money in the form of a donation, gift, grant or other conveyance, the organization]~~ the Department once every 6 months. Such reports must:

(a) Be submitted to the Department within 30 days after the end of each 6-month period; and

(b) At a minimum, contain the following information:

(1) The amount of money that the designated organization received from the Department during the immediately preceding 6-month period;

(2) The number of persons served pursuant to the grant, contract or similar agreement;

(3) A description of the services provided pursuant to the grant, contract or similar agreement; and

(4) Any other information deemed appropriate by the Department.

3. The Department shall ~~also~~ submit ~~a copy~~ copies of the ~~report~~ reports described in subsection 2, in electronic format, to the Director of the Legislative Counsel Bureau. ~~If the quasi-public organization prepares a summary annual report for submission to a state agency from which the organization receives money in the form of a donation, gift, grant or other conveyance, the organization may submit a copy of such summary annual report to the Director of the Legislative Counsel Bureau in lieu of submitting any other report that is more frequent or specific in nature.~~

~~3.7~~

4. As used in this section:

(a) ~~"Quasi-public"~~ "Department" means the Department of Health and Human Services created by NRS 232.300.

(b) "Designated organization" means:

(1) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c); or

(2) Any other entity that ~~is~~ :

(I) Receives money by way of a grant, contract or similar agreement for the purpose of providing to persons services that are within the purview of the Department, including, without limitation, domestic violence prevention and assistance, and treatment for mental health issues and substance abuse; and

(II) Is created by or pursuant to an interlocal agreement.

~~[(b) "State agency" means an agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government.]~~

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. This act becomes effective upon passage and approval ~~it~~ and expires by limitation on July 31, 2013.

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. 745 to Assembly Bill No. 242 narrows the scope of website posting and reporting requirements in the bill to only those designated organizations that receive money from the Nevada Department of Health and Human Services (DHHS) in the form of a donation, gift, grant, or other conveyance.

It provides that a designated organization that receives money from the Department must include on its Internet website or, if the organization does not have a website, on the website of DHHS: the names and terms of the persons on the board of directors or governing body of the

organization; the most recent annual report of the organization; and the mission statement or other statement of purpose of the organization.

It provides, for a period of two years, that DHHS require any designated organizations involved in grants or contracts related to the provision of services within the scope of DHHS to submit a report every six months to the Department. The report must indicate the amount of money received from the Department over the previous six months, the number of persons served under the grant or contract, a description of the services provided, and other information deemed appropriate by DHHS.

It requires the Department to submit a copy of these reports electronically to the Legislative Counsel Bureau and adds a sunset to the bill of July 31, 2013.

Amendment adopted.

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

Assembly Bill No. 277.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 677.

"SUMMARY—Provides for special license plates honoring female veterans. (BDR 43-810)"

"AN ACT relating to motor vehicles; requiring the Department of Motor Vehicles, with respect to special license plates for the support of outreach programs and services for veterans and their families, to make such plates available to female veterans with an optional image representative of female veterans; providing for the issuance of special license plates inscribed with the words "DISABLED FEMALE VETERAN"; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Motor Vehicles to order the preparation of special license plates for the support of outreach programs and services for veterans and their families. These special license plates are available to veterans of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard, or the spouse, parent or child of such a veteran. (NRS 482.3763) **Section 4** of this bill requires the Department to make the plates available: (1) to female veterans; and (2) with an optional image representative of female veterans. The fees for the initial issuance and renewal of the optional version of the special license plates for the support of outreach programs and services for veterans and their families are the same as for the regular version.

Under existing law, new special license plates authorized by an act of the Legislature typically are subject to all of the following: (1) approval or disapproval by the Commission on Special License Plates; (2) the limitation on the number of separate designs of special license plates that may be issued by the Department at any one time; and (3) the requirement that the Department receive at least 1,000 applications for the issuance of the plate within 2 years after the effective date of the act of the Legislature.

(NRS 482.367004, 482.367008, 482.36705) The optional special license plates for female veterans are exempt from all three of the preceding requirements because the plates are simply an optional version of existing special license plates for veterans.

Existing law entitles a veteran who has suffered a 100-percent service-connected disability and who receives compensation from the United States for the disability to receive special license plates inscribed with the words "DISABLED VETERAN" or "VETERAN WHO IS DISABLED." (NRS 482.377) Veterans with these license plates are entitled to certain privileges and exemptions related to parking. (NRS 482.377, 484B.463, 484B.467) Section 4.5 of this bill provides for the issuance of such plates inscribed with the words "DISABLED FEMALE VETERAN."

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 482.3763 is hereby amended to read as follows:

482.3763 1. The Director shall order the preparation of special license plates for the support of outreach programs and services for veterans and their families and establish procedures for the application for and issuance of the plates.

2. The Department shall, upon application therefor and payment of the prescribed fees, issue special license plates for the support of outreach programs and services for veterans and their families to:

(a) A veteran of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard; ~~{or}~~

(b) *A female veteran; or*

(c) The spouse, parent or child of a person described in paragraph (a) ~~{or (b)}.~~

↪ The plates must be inscribed with the word "VETERAN" and with the seal of the branch of the Armed Forces of the United States, ~~{or}~~ the seal of the National Guard ~~{or}~~ ***or an image representative of the female veterans,*** as applicable, requested by the applicant. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with special license plates for the support of outreach programs and services for veterans and their families if that person pays the fees for the personalized prestige license plates in addition to the fees for the special license plates for the support of outreach programs and services for veterans and their families pursuant to subsection 4.

3. If, during a registration year, the holder of special plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle which meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

4. In addition to all other applicable registration and license fees and governmental services taxes, and to the special fee imposed pursuant to NRS 482.3764 for the support of outreach programs and services for veterans and their families, the fee for:

(a) The initial issuance of the special license plates is \$35.

(b) The annual renewal sticker is \$10.

5. If the special plates issued pursuant to this section are lost, stolen or mutilated, the owner of the vehicle may secure a set of replacement license plates from the Department for a fee of \$10.

Sec. 4.5. NRS 482.377 is hereby amended to read as follows:

482.377 1. A veteran of the Armed Forces of the United States who, as a result of his or her service:

(a) Has suffered a 100-percent service-connected disability and who receives compensation from the United States for the disability is entitled to specially designed license plates inscribed with the words "~~DISABLED VETERAN~~" **VETERAN," "DISABLED FEMALE VETERAN"** or "VETERAN WHO IS DISABLED," at the option of the veteran, and three or four consecutive numbers.

(b) Has been captured and held prisoner by a military force of a foreign nation is entitled to specially designed license plates inscribed with the words "EX PRISONER OF WAR" and three or four consecutive numbers.

2. Each person who qualifies for special license plates pursuant to this section may apply for not more than two sets of plates. If the person applies for a second set of plates for an additional vehicle, the second set of plates must have a different number than the first set of plates issued to the same applicant. Special license plates issued pursuant to this section may be used only on a private passenger vehicle, a noncommercial truck or a motor home.

3. The Department shall issue specially designed license plates for persons qualified pursuant to this section who submit an application on a form prescribed by the Department and evidence of disability or former imprisonment required by the Department.

4. A vehicle on which license plates issued by the Department pursuant to this section are displayed is exempt from the payment of any parking fees, including those collected through parking meters, charged by the State or any political subdivision or other public body within the State, other than the United States.

5. If, during a registration year, the holder of a set of special license plates issued pursuant to this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle which meets the requirements of this section and report the change to the Department in accordance with the procedure set forth for other transfers; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 5. The Nevada Veterans' Services Commission, created by NRS 417.150, shall provide an image representative of female veterans to the Department of Motor Vehicles for the purposes of NRS 482.3763, as amended by section 4 of this act.

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. 677 to Assembly Bill No. 277 provides that a female veteran who has suffered a 100 percent service-connected disability and who receives compensation from the United States for that disability may be issued a special "Disabled Female Veteran" license plate from the Department of Motor Vehicles. A holder of this plate would be entitled to all the same benefits as a holder of a "Disabled Veteran" plate, including the right to park in a parking space designated for persons who are handicapped.

Amendment adopted.

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

Assembly Bill No. 294.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 695.

"SUMMARY—Revises various provisions ~~{governing mobile}~~ **relating to gaming.** (BDR 41-1042)"

"AN ACT relating to gaming; ~~{clarifying that for purposes of regulation under the Nevada Gaming Control Act, the term "slot machine" does not include any item used for mobile gaming;}~~ **revising certain definitions relating to gaming for the purposes of the Nevada Gaming Control Act; removing the authority of the Nevada Gaming Commission to regulate certain independent contractors; making it unlawful to distribute gaming devices, systems or related equipment under certain circumstances;** revising provisions relating to the location of a computer system associated with mobile gaming; **providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 2 of this bill clarifies that for purposes of regulation under the Nevada Gaming Control Act, the term "slot machine" does not include any item used for mobile gaming.}~~ **Existing law provides that mobile gaming may only be conducted in public areas of an establishment which holds a nonrestricted gaming license. (NRS 463.0176) Section 3.6 of this bill authorizes mobile gaming to be conducted in any area of such an establishment.**

Section 3.8 of this bill removes the authority of the Nevada Gaming Commission to regulate independent contractors which manufacture certain property related to gaming. Section 3.8 also makes it unlawful to knowingly distribute any gaming device, system or related equipment from Nevada to any other jurisdiction where the use of any such device, system or related equipment is illegal.

Section 4 of this bill clarifies that a computer system associated with mobile gaming may be located outside a licensed gaming establishment but must be located within this State.

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. 3.2. **NRS 463.0155 is hereby amended to read as follows:**

463.0155 "Gaming device" means any object used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss and which does not otherwise constitute associated equipment. The term includes, without limitation:

1. A slot machine.
2. A collection of two or more of the following components:
 - (a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;
 - (b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;
 - (c) ~~IA storage medium containing a control program;~~
 - ~~—(d) An assembled mechanical or electromechanical display unit intended for use in gambling; or~~
 - ~~—(e) (d) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.~~
3. Any object which may be connected to or used with a slot machine to alter the normal criteria of random selection or affect the outcome of a game.
4. A system for the accounting or management of any game in which the result of the wager is determined electronically by using any combination of hardware or software for computers.
5. A control program.
6. Any combination of one of the components set forth in paragraphs (a) to ~~(e),~~ **(d),** inclusive, of subsection 2 and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.
7. Any object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.

↪ As used in this section, "control program" means any software, source language or executable code which affects the result of a wager by determining win or loss as determined pursuant to regulations adopted by the Commission.

Sec. 3.4. NRS 463.01715 is hereby amended to read as follows:

463.01715 1. "Manufacture" means:

(a) To manufacture, produce, program, design, control the design of ~~to~~ ~~maintain a copyright over~~ or make modifications to a gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **for use or play in Nevada;**

(b) To direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **for use or play in Nevada;** or

(c) To assemble, or control the assembly of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **for use or play in Nevada.**

2. As used in this section ~~to~~ ~~"assume"~~ :

(a) "Assume" responsibility means to acquire :

(1) Acquire complete control over, or ownership of, the applicable gaming device, cashless wagering system, mobile gaming system or interactive gaming system ~~to~~ **; and**

(2) Accept continuing legal responsibility for the gaming device, cashless wagering system, mobile gaming system or interactive gaming system, including, without limitation, any form of manufacture performed by an affiliate or independent contractor.

(b) "Independent contractor" means, with respect to a manufacturer, any person who:

(1) Is not an employee of the manufacturer; and

(2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.

Sec. 3.6. NRS 463.0176 is hereby amended to read as follows:

463.0176 "Mobile gaming" means the conduct of gambling games through communications devices operated solely in ~~public areas of~~ an establishment which holds a nonrestricted gaming license and which operates at least 100 slot machines and at least one other game by the use of communications technology that allows a person to transmit information to a computer to assist in the placing of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information. For the purposes of this section ~~to~~

~~1. "Communications"~~ **"communications" technology means any method used and the components employed by an establishment to facilitate the**

transmission of information, including, without limitation, transmission and reception by systems based on wireless network, wireless fidelity, wire, cable, radio, microwave, light, optics or computer data networks. The term does not include the Internet.

~~{2. "Public areas" does not include rooms available for sleeping or living accommodations.}~~

Sec. 3.8. NRS 463.650 is hereby amended to read as follows:

463.650 1. Except as otherwise provided in subsections 2 to 5, inclusive, it is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to operate, carry on, conduct or maintain any form of manufacture, selling or distribution of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Nevada ~~for for distribution outside of Nevada~~ without first procuring and maintaining all required federal, state, county and municipal licenses.

2. A lessor who specifically acquires equipment for a capital lease is not required to be licensed under this section or NRS 463.660.

3. The holder of a state gaming license or the holding company of a corporation, partnership, limited partnership, limited-liability company or other business organization holding a license may, within 2 years after cessation of business or upon specific approval by the Board, dispose of by sale in a manner approved by the Board, any or all of its gaming devices, including slot machines, mobile gaming systems and cashless wagering systems, without a distributor's license. In cases of bankruptcy of a state gaming licensee or foreclosure of a lien by a bank or other person holding a security interest for which gaming devices are security in whole or in part for the lien, the Board may authorize the disposition of the gaming devices without requiring a distributor's license.

4. The Commission may, by regulation, authorize a person who owns:

- (a) Gaming devices for home use in accordance with NRS 463.160; or
- (b) Antique gaming devices,

↳ to sell such devices without procuring a license therefor to residents of jurisdictions wherein ownership of such devices is legal.

5. Upon approval by the Board, a gaming device owned by:

- (a) A law enforcement agency;
- (b) A court of law; or
- (c) A gaming device repair school licensed by the Commission on Postsecondary Education,

↳ may be disposed of by sale, in a manner approved by the Board, without a distributor's license. An application for approval must be submitted to the Board in the manner prescribed by the Chair.

6. Any person who the Commission determines is a suitable person to receive a license under the provisions of this section and NRS 463.660 may be issued a manufacturer's or distributor's license. The burden of proving his or her qualification to receive or hold a license under this section and NRS 463.660 is at all times on the applicant or licensee.

7. Every person who must be licensed pursuant to this section is subject to the provisions of NRS 463.482 to 463.645, inclusive, unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a manufacturer, seller or distributor from the provisions of NRS 463.482 to 463.645, inclusive, if the Commission determines that the exemption is consistent with the purposes of this chapter.

9. ~~{The Commission may provide by regulation for:~~
~~— (a) The filing by a manufacturer of reports and information regarding:~~
~~— (1) Any independent contractor; and~~
~~— (2) The business arrangements between the manufacturer and an independent contractor.~~
~~— (b) Registration of independent contractors.~~
~~— (c) Procedures pursuant to which an independent contractor may be required to file an application for a finding of suitability.~~
~~— (d) Such other regulatory oversight of independent contractors as the Commission determines is necessary and appropriate.}~~ *Any person conducting business in Nevada who is not required to be licensed as a manufacturer, seller or distributor pursuant to subsection 1, but who otherwise must register with the Attorney General of the United States pursuant to Title 15 of U.S.C., must submit to the Board a copy of such registration within 10 days after submission to the Attorney General of the United States.*

10. *It is unlawful for any person, either as owner, lessee or employee, whether for hire or not, to knowingly distribute any gaming device, cashless wagering system, mobile gaming system, interactive gaming system or associated equipment from Nevada to any jurisdiction where the possession, ownership or use of any such device, system or equipment is illegal.*

11. As used in this section:

(a) "Antique gaming device" means a gaming device that was manufactured before 1961.

(b) "Holding company" has the meaning ascribed to it in NRS 463.485.

~~{(c) "Independent contractor" means, with respect to a manufacturer, any person who:~~

~~— (1) Is not an employee of the manufacturer; and~~
~~— (2) Pursuant to an agreement with the manufacturer, designs, develops, programs, produces or composes a control program used in the manufacture of a gaming device. As used in this subparagraph, "control program" has the meaning ascribed to it in NRS 463.0155.}~~

Sec. 4. NRS 463.730 is hereby amended to read as follows:

463.730 1. Except as otherwise provided in subsection 2, the Commission may, with the advice and assistance of the Board, adopt regulations governing the operation of mobile gaming and the licensing of:

(a) An operator of a mobile gaming system;

- (b) A manufacturer, seller or distributor of a mobile gaming system; and
 - (c) A manufacturer of equipment associated with mobile gaming.
2. The Commission may not adopt regulations pursuant to this section until the Commission first determines that:

(a) Mobile gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only from areas of licensed gaming establishments that have been approved by the Commission for that purpose; and

(b) Mobile gaming can be operated in a manner which complies with all applicable laws.

3. The regulations adopted by the Commission pursuant to this section must:

(a) Provide that gross revenue received by a licensed gaming establishment or the operator or the manufacturer of a mobile gaming system from the operation of mobile gaming is subject to the same license fee provisions of NRS 463.370 as the other games and gaming devices operated at the licensed gaming establishment.

(b) Provide that a mobile communications device which displays information relating to the game to a participant in the game as part of a mobile gaming system is subject to the same fees and taxes applicable to slot machines as set forth in NRS 463.375 and 463.385.

(c) Set forth standards for the ~~location and~~ security of the computer system *and its location, which may be outside a licensed gaming establishment but must be within this State*, and for approval of hardware and software used in connection with mobile gaming.

(d) Define "mobile gaming system," "operator of a mobile gaming system" ~~+~~ *"and"* "equipment associated with mobile gaming" ~~and "public area"~~ as the terms are used in this chapter.

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 certain definitions, particularly by eliminating "public area" from the definition of "mobile gaming."

The amendment also adds several new sections to the bill to eliminate a storage medium containing a control program from the definition of "gaming device."

It clarifies that "manufacture" includes gaming systems for play in Nevada.

It specifies that the term "assume responsibility" means to accept continuing legal responsibility for gaming devices and systems.

The amendment removes authority of the Nevada Gaming Commission to regulate independent contractors that manufacture certain property related to gaming; and it makes it unlawful to distribute gaming devices, systems, or related equipment from Nevada to another jurisdiction where such devices and systems are illegal.

Amendment adopted.

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

Assembly Bill No. 337.

Bill read second time.

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

Amendment No. 689.

"SUMMARY—Revises provisions governing campaign practices. (BDR 24-721)"

"AN ACT relating to campaign practices; requiring a notice of an alleged violation of provisions governing campaign practices to include certain information; requiring the Secretary of State to provide a copy of the notice and any accompanying information to the person alleged in the notice to have committed the violation; authorizing the person to respond to such a notice; authorizing the Secretary of State to conduct an investigation based on such a notice in certain circumstances; authorizing the Secretary of State or a designated officer or employee of the Secretary of State to subpoena witnesses and require the production of documents or records by subpoena when conducting an investigation based on such a notice in certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law confers authority upon the Secretary of State to conduct investigations concerning alleged violations of chapter 294A of NRS governing campaign practices. Existing law also authorizes a person who believes that any provision of that chapter has been violated to notify the Secretary of State in writing. The notice must be signed by the person and include any information in support of the alleged violation. (NRS 294A.410) This bill specifies the information that must be included in the notice and requires the Secretary of State to provide a copy of the notice and any accompanying information to the person, if any, alleged in the notice to have committed the violation. If, based on such a notice, the Secretary of State determines that reasonable suspicion exists that a violation has occurred, the Secretary of State is authorized to investigate the allegation. This bill further provides that, if the notice is received within 180 days after the general election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State is authorized, when conducting an investigation based on the notice, to subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records in the possession of ~~the~~ any person: (1) alleged in the notice to have committed the violation ~~that~~; or (2) who the Secretary of State or a designated officer or employee of the Secretary of State has reasonable cause to believe produced or disseminated the materials that are the subject of the notice, if the Secretary of State or a designated officer or employee of the Secretary of State determines that the documents or records are relevant or material to the investigation. Finally, this bill authorizes the Secretary of State or a designated officer or employee of the

Secretary of State to apply to a court for an order compelling compliance if a person fails to testify or produce the required documents or records.

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

Section 1. NRS 294A.410 is hereby amended to read as follows:

294A.410 1. If it appears that the provisions of this chapter have been violated, the Secretary of State may:

(a) Conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted and prosecuted in the First Judicial District Court; or

(b) Refer the alleged violation to the Attorney General. The Attorney General shall investigate the alleged violation and institute and prosecute the appropriate proceedings in the First Judicial District Court without delay.

2. A person who believes that any provision of this chapter has been violated may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include ~~any~~ :

(a) *The full name and address of the person alleging the violation;*

(b) *A clear and concise statement of facts sufficient to establish that the alleged violation occurred;*

(c) *Any evidence substantiating the alleged violation;*

(d) *A certification by the person alleging the violation that the facts alleged in the notice are true to the best knowledge and belief of that person; and*

(e) *Any other information in support of the alleged violation.*

3. *As soon as practicable after receiving a notice of an alleged violation pursuant to subsection 2, the Secretary of State shall provide a copy of the notice and any accompanying information to the person, if any, alleged in the notice to have committed the violation. Any response submitted to the notice must be accompanied by a short statement of the grounds, if any, for objecting to the alleged violation and include any evidence substantiating the objection.*

4. *If the Secretary of State determines, based on a notice of an alleged violation received pursuant to subsection 2, that reasonable suspicion exists that a violation of this chapter has occurred, the Secretary of State may conduct an investigation of the alleged violation.*

5. *If a notice of an alleged violation is received pursuant to subsection 2 not later than 180 days after the general election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State, when conducting an investigation of the alleged violation pursuant to subsection 4, may subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records ~~in the possession of the person alleged in the notice to have committed the violation~~ that the Secretary of State or a designated officer or employee of the Secretary of*

State determines are relevant or material to the investigation ~~and~~ and are in the possession of:

(a) Any person alleged in the notice to have committed the violation; or
(b) If the notice does not include the name of a person alleged to have committed the violation, any person who the Secretary of State or a designated officer or employee of the Secretary of State has reasonable cause to believe produced or disseminated the materials that are the subject of the notice.

6. If a person fails to testify or produce any documents or records in accordance with a subpoena issued pursuant to subsection 5, the Secretary of State or designated officer or employee may apply to the court for an order compelling compliance. A request for an order of compliance may be addressed to:

(a) The district court in and for the county where service may be obtained on the person refusing to testify or produce the documents or records, if the person is subject to service of process in this State; or

(b) A court of another state having jurisdiction over the person refusing to testify or produce the documents or records, if the person is not subject to service of process in this State.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 689 provides that the Secretary of State may also subpoena any person who participated in the production or dissemination of materials that are the subject of the notice of the alleged violation.

Amendment adopted.

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

Assembly Bill No. 379.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 635.

"SUMMARY—Establishes the crime of stolen valor. (BDR 15-1005)"

"AN ACT relating to crimes; establishing the crime of stolen valor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the

statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignia or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain **some benefit or** something of **monetary** value, misleads or defrauds another person by ~~making any~~ **committing various acts concerning the** false representation of ~~this or her~~ **himself or herself with relation to** military service ~~and obtains something of value. If the amount of the loss caused by the violation:~~ (1) is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor; and (2) is \$2,500 or more, the person who committed the violation is guilty of a category E felony.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person ~~is guilty of the crime of stolen valor if the person~~ shall not knowingly, with the intent to mislead or defraud:

(a) ~~Makes~~ **Make any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;**

(b) ~~Makes~~ **Make any such false representation with the intent to obtain employment, be elected or appointed to public office or obtain something of monetary value; and**

(c) ~~Misleads~~ **Mislead or ~~defrauds~~ defraud another person through such false representation and ~~obtains~~ obtain employment, be elected or appointed to public office or obtain something of monetary value.**

~~2. If the amount of the loss caused by a violation of subsection 1:~~

~~(a) Is less than \$2,500, the person who committed the violation~~

A person shall not knowingly, with the intent to mislead or defraud:

(a) **Falsely represent himself or herself by wearing any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such**

forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

3. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely represent himself or herself, verbally or in writing, to have been awarded any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;

(b) Make such false representation with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false representation and obtain something of monetary value.

4. A person shall not knowingly, with the intent to mislead or defraud:

(a) Falsely claim to be or to have been a member of any elite United States Special Operations Command (USSOCOM) of the Armed Forces of the United States, any of its component units or the predecessors of any such units verbally, in writing or by wearing or displaying the distinctive emblem, badge or pin thereof;

(b) Make such false claims with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through such false claims and obtain something of monetary value.

5. A person shall not knowingly, with the intent to mislead or defraud:

(a) Forge, counterfeit or falsely alter any military document of any military service of the United States, including, without limitation, a certificate of discharge or a military identification card or badge;

(b) Use for any purpose, unlawfully possess, display or exhibit any such false document with the intent to obtain something of monetary value; and

(c) Mislead or defraud another person through the use of any such false document and obtain something of monetary value.

6. A person who violates any provision of this section is guilty of the crime of stolen valor. A person who violates:

(a) Subsection 1 is guilty of a misdemeanor.

(b) Subsection 2, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(c) Subsection 3, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.

(d) Subsection 4 is guilty of a misdemeanor.

(e) Subsection 5 is guilty of a gross misdemeanor.

7. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Distinguished

Service Cross, Navy Cross, Air Force Cross, Silver Star or Purple Heart, or any replacement or duplicate medal for any such medal as authorized by law, is guilty of a gross misdemeanor.

~~[(b) Is \$2,500 or more, the person who committed the violation]~~

8. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Medal of Honor is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insigne or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insigne or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

The amendment returns the sponsors' bill to the original bill that was introduced in the other house adding the amendment we proposed in this house, which is adding the word "monetary" to "anything of value." Therefore, with the amended language, it would be "anything of monetary value" added to the restored original bill.

Amendment adopted.

The following amendment was proposed by Senator Halseth:

Amendment No. 656.

"SUMMARY—Establishes the crime of stolen valor. (BDR 15-1005)"

"AN ACT relating to crimes; establishing the crime of stolen valor; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead

another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignie or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain something of value, misleads or defrauds another person by making any false representation of his or her military service and obtains something of value. If the amount of the loss caused by the violation: (1) is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor; and (2) is \$2,500 or more, the person who committed the violation is guilty of a category E felony.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A person is guilty of the crime of stolen valor if the person knowingly, with the intent to mislead or defraud:*

(a) *Makes any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;*

(b) *Makes any such false representation with the intent to obtain something of value; and*

(c) *Misleads or defrauds another person through such false representation and obtains something of value.*

2. *If the amount of the loss caused by a violation of subsection 1:*

(a) *Is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor.*

(b) *Is \$2,500 or more, the person who committed the violation is guilty of a category E felony and shall be punished as provided in NRS 193.130.*

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insignie or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insignie or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be

entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.

Senator 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 simply adds myself to Assembly Bill No. 379 as a joint sponsor.

Amendments adopted.

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

Assembly Bill No. 388.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 696.

"SUMMARY—Revises provisions relating to real property. (BDR 9-568)"

"AN ACT relating to real property; revising provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied real property; ~~providing civil remedies for failure to comply with certain provisions governing the exercise of the power of sale under a deed of trust concerning owner-occupied real property; providing civil penalties;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the trustee under a deed of trust concerning owner-occupied housing has the power to sell the property to which the deed of trust applies, subject to certain restrictions. (NRS 107.080, 107.085, 107.086) ~~{Sections 4-22 of this bill establish additional restrictions on the trustee's power of sale with respect to owner-occupied housing which are based on Senate Bill No. 729 of the current session of the California Legislature, as amended. Section 23 of this bill provides that these additional restrictions apply only to a notice of default and election to sell which is recorded on or after July 1, 2011.~~

~~—Section 13 prohibits the recording of a notice of default and election to sell unless reasonable and good faith efforts have been made to evaluate the borrower for all available alternatives to the exercise of the trustee's power of sale. Section 14 prohibits the recording of a notice of default and election to sell until the trustee, beneficiary or authorized agent complies with certain requirements regarding contact with, or attempts to contact, the borrower. Under section 15, if an eligible borrower requests, either orally or in writing, a loan modification, a notice of default and election to sell may not be recorded unless the borrower's application has been reviewed in good faith and a decision has been rendered on that application. Sections 17 and 19 require a declaration of compliance to be recorded with the notice of default and election to sell and section 17 provides a form for that declaration.~~

~~Section 18: (1) authorizes a borrower to bring a civil action to enjoin a trustee's sale, to void a trustee's sale and to recover a specified amount of damages and reasonable attorney's fee and costs under certain circumstances; (2) authorizes the Attorney General to obtain civil penalties for violations of the provisions of this bill; and (3) provides that a violation of the provisions of this bill by a person which is licensed in this State is deemed to be a violation of the law governing that license.~~

~~— Additionally, section 19: (1) requires a life-of-loan accounting containing certain information to be included with the copy of the notice of default and election to sell which is mailed to the borrower; and (2) prohibits the recording of a notice of sale if the borrower has entered into a contract to sell the property which has been approved by the lender or the borrower has requested approval of such a contract but the lender has not yet approved or disapproved the sale.~~

One such restriction: (1) requires the trustee under the deed of trust to include a form to request mediation with the notice of default and election to sell which is mailed to the grantor of the deed of trust or the person who holds the title of record; and (2) authorizes the grantor of the deed of trust or the person who holds the title of record to request mediation under rules adopted by the Supreme Court. (NRS 107.086) Section 20.7 of this bill requires the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record to include a notice provided by the entity designated to administer the Foreclosure Mediation Program which states that the grantor or the person who holds the title of record has a right to seek foreclosure mediation in the Foreclosure Mediation Program.

Under existing law, another restriction on the exercise of the trustee's power of sale prohibits the trustee from exercising the power of sale unless, not later than 60 days before the date of the sale, the trustee causes a notice to be served on the grantor or the person who holds the title of record which contains the telephone numbers of certain agencies which may provide assistance to the grantor or the person who holds the title of record. (NRS 107.085) Section 20.3 of this bill amends this notice to include: (1) a statement that the person receiving the notice may have a right to participate in the State of Nevada Foreclosure Mediation Program if the time to request mediation has not expired; (2) the telephone number of the State of Nevada Foreclosure Mediation Program; and (3) the telephone number of the Division of Mortgage Lending of the Department of Business and Industry.

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. ~~[Chapter 107 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 18, inclusive, of this act.] (Deleted by amendment.)~~

Sec. 5. ~~[As used in sections 5 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 11, inclusive, of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 6. ~~["Authorized agent" means an agent designated by a trustee or beneficiary to act on behalf of the trustee or beneficiary.] (Deleted by amendment.)~~

Sec. 7. ~~["Beneficiary" means the beneficiary of a deed of trust which concerns owner occupied housing.] (Deleted by amendment.)~~

Sec. 8. ~~["Borrower" means the grantor of a deed of trust which concerns owner occupied housing or the person who holds the title of record.] (Deleted by amendment.)~~

Sec. 9. ~~["Mortgage servicer" means a person responsible for the day-to-day management of a mortgage loan account, including, without limitation, collecting and crediting periodic loan payments, handling any escrow account or enforcing mortgage loan terms either as the holder of the loan note or on behalf of the holder of the loan note.] (Deleted by amendment.)~~

Sec. 10. ~~["Owner occupied housing" has the meaning ascribed to it in NRS 107.086.] (Deleted by amendment.)~~

Sec. 11. ~~["Trustee" means the trustee under a deed of trust which concerns owner occupied housing.] (Deleted by amendment.)~~

Sec. 12. ~~[1. In addition to the requirements of NRS 107.085 and 107.086, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner occupied housing is subject to the provisions of sections 5 to 18, inclusive, of this act.~~

~~— 2. The provisions of sections 5 to 18, inclusive, of this act apply only to a deed of trust under a trust agreement which concerns owner occupied housing.] (Deleted by amendment.)~~

Sec. 13. ~~[1. A trustee, beneficiary or authorized agent shall not record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 unless the trustee, beneficiary or authorized agent makes reasonable and good faith efforts to evaluate the borrower for all available loss mitigation options to avoid foreclosure.~~

~~— 2. This section must not be construed to require a trustee, beneficiary or authorized agent to act in a manner inconsistent with the terms of any applicable contract for the servicing of the loan at issue.] (Deleted by amendment.)~~

Sec. 14. ~~[1. Except as otherwise provided in this section, a trustee, beneficiary or authorized agent shall not record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 until:~~

~~—(a) Thirty days after initial contact is made with the borrower as required by subsection 2 or 30 days after satisfying the requirements of subsection 5; and~~

~~—(b) If applicable, the requirements of section 15 of this act have been satisfied.~~

~~—2. Except as otherwise provided in subsection 6, a beneficiary or its authorized agent shall contact the borrower in person or by telephone to assess the borrower's financial situation and to explore options to avoid the exercise of the trustee's power of sale pursuant to NRS 107.080. During the initial contact, the beneficiary or its authorized agent shall advise the borrower that he or she has the right to request a subsequent meeting and, if requested, the beneficiary or its authorized agent shall schedule the meeting to occur within 14 days. The assessment of the borrower's financial situation and the discussion of the options to avoid the exercise of the trustee's power of sale may occur during the initial contact or at the subsequent meeting scheduled for that purpose. In either case, the beneficiary or its authorized agent shall provide to the borrower the toll-free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department and, if the borrower may be eligible for a loan modification, a deadline for the borrower to submit an initial application for a loan modification which must not be earlier than 45 days after the initial contact.~~

~~—3. The loss mitigation personnel of the beneficiary or its authorized agent may participate by telephone during any contact required by this section.~~

~~—4. A borrower may designate, in writing, a housing counseling agency certified by the United States Department of Housing and Urban Development, an attorney or any other advisor to discuss with the beneficiary or its authorized agent, on the borrower's behalf, the borrower's financial situation and options for the borrower to avoid the exercise of the trustee's power of sale. Contact with a person or agency designated by a borrower pursuant to this subsection satisfies the requirements of subsection 2. A loan modification or workout plan offered to a person or agency designated by a borrower pursuant to this subsection is subject to approval by the borrower.~~

~~—5. Subject to the requirements of section 15 of this act and except as otherwise provided in subsection 6, even if the beneficiary or its authorized agent has not contacted the borrower as required by subsection 2, a notice of default may be recorded pursuant to subsection 3 of NRS 107.080 if the beneficiary or its authorized agent has taken all the following actions:~~

~~—(a) The beneficiary or its authorized agent has mailed by registered or certified mail, return receipt requested and with postage prepaid, to the borrower a letter which includes:~~

~~— (1) The toll-free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department; and~~

~~— (2) If the borrower may be eligible for a loan modification, a deadline for the submission of an initial application for a loan modification which must not be earlier than 45 days after the date of the letter mailed pursuant to this paragraph or 45 days after the date on which the beneficiary or its authorized agent made initial contact with the borrower pursuant to subsection 2, whichever is earlier.~~

~~— (b) After mailing the letter required by paragraph (a), the beneficiary or its authorized agent has attempted to contact the borrower by telephone at least 3 times at different hours and on different days. Telephone calls made pursuant to this paragraph must be made to the primary telephone number of the borrower which is on file with the beneficiary. The beneficiary or its authorized agent satisfies the requirements of this paragraph if it determines, after attempting contact pursuant to this paragraph, that the primary telephone number of the borrower on file and any secondary telephone numbers on file have been disconnected.~~

~~— (c) If the borrower does not respond within 2 weeks after the beneficiary or its authorized agent has satisfied the requirements of paragraph (b), the beneficiary or its authorized agent has mailed to the borrower, by registered or certified mail, return receipt requested and with postage prepaid, a letter which includes the information required by paragraph (a).~~

~~— (d) The beneficiary or its authorized agent provides a means for the borrower to contact the beneficiary or its authorized agent in a timely manner, including, without limitation, a toll-free telephone number that will provide access to a live representative during business hours.~~

~~— (e) The beneficiary or its authorized agent posts a prominent link on its Internet website, if any, to the following information:~~

~~— (1) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid the exercise of the trustee's power of sale, and instructions to such borrowers advising them on steps to take to explore those options.~~

~~— (2) A list of financial documents the borrower should collect and be prepared to present to the beneficiary or its authorized agent when discussing options for avoiding the exercise of the trustee's power of sale.~~

~~— (3) A toll-free telephone number for borrowers who wish to discuss with the beneficiary or its authorized agent options for avoiding the exercise of the trustee's power of sale.~~

~~— (4) The toll-free telephone number made available by the United States Department of Housing and Urban Development to find a housing counseling agency certified by that Department.~~

~~— 6. The requirements of subsections 1, 2 and 5 do not apply if the borrower:~~

~~—(a) Has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary or authorized agent;~~

~~—(b) Has contracted with a person whose primary business is advising persons who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to beneficiaries;~~
~~or~~

~~—(c) Has filed a petition pursuant to Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the petition or granting relief from a stay of the trustee's sale.] (Deleted by amendment.)~~

Sec. 15. ~~1. Except as otherwise provided in this section, if an eligible borrower requests an application for a loan modification, either orally or in writing, not later than 90 days after the date on which the obligation became delinquent or not later than 45 days after the beneficiary or its authorized agent makes initial contact with the borrower pursuant to section 14 of this act, whichever is later, the trustee, beneficiary or authorized agent shall not record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 unless and until it has, in good faith, reviewed the application, rendered a decision on the application and sent the borrower a denial explanation letter as required by section 16 of this act.~~

~~2. If a borrower requests a loan modification, either orally or in writing, by the deadline described in subsection 1, but does not initially submit all the documentation or information the beneficiary or its authorized agent requires to consider the borrower for a loan modification, the beneficiary or its authorized agent shall provide the borrower with a written notice that:~~

~~—(a) Lists any supplemental documentation or information required; and~~

~~—(b) Includes the deadline for providing that documentation or information, which must not be earlier than 30 calendar days from the date on which the borrower receives the notice.~~

~~3. Except as otherwise provided in this subsection, if a borrower requests a loan modification, either orally or in writing, within 15 days after receiving a copy of the notice of default and election to sell as required by subsection 3 of NRS 107.080 and submits a completed application for a loan modification within 15 days after receiving application instructions from the mortgage servicer or any other application deadline communicated in writing by the mortgage servicer, whichever is later, the trustee, beneficiary or authorized agent shall not record a notice of sale pursuant to subsection 5 of NRS 107.080 until at least 10 business days after it has, in good faith, reviewed the application, rendered a decision on the application and sent the borrower a denial explanation letter in accordance with section 16 of this act. This subsection does not apply if a borrower applied for a loan modification before the notice of default and election to sell was recorded pursuant to subsection 3 of NRS 107.080 and the trustee, beneficiary or authorized agent satisfied the requirements of sections 16 and 17 of this act.~~

~~— 4. If the mortgage servicer has signed a Making Home Affordable Servicer Participation Agreement with the Federal National Mortgage Association or is otherwise required to review the borrower's loan under the guidelines of the federal Making Home Affordable Modification Program, compliance with applicable rules of that program regarding deadlines and timeframes for the borrower to submit and complete an application for a loan modification satisfy the requirements of this section while that program remains in effect.~~

~~— 5. The provisions of this section must not be construed:~~

~~— (a) To require a mortgage servicer to perform services in a manner inconsistent with the terms of any applicable contract for the servicing of the loan at issue.~~

~~— (b) To diminish in any way the obligations of a trustee, beneficiary or authorized agent that has signed a Making Home Affordable Servicer Participation Agreement with the Federal National Mortgage Association or is otherwise required to review a loan under the guidelines of the federal Making Home Affordable Modification Program.~~

~~— 6. The requirements of this section do not apply if:~~

~~— (a) The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary or authorized agent; or~~

~~— (b) The beneficiary or its authorized agent does not offer any loan modifications.] (Deleted by amendment.)~~

~~Sec. 16. 1. If a borrower who requests a loan modification, either orally or in writing, is denied either a permanent loan modification or a trial period plan through the federal Making Home Affordable Modification Program, the beneficiary or its authorized agent shall mail to the borrower by certified mail, not later than 10 business days following the denial, a denial explanation letter that states the reason or reasons for the denial.~~

~~— 2. If an application for a loan modification is denied because the borrower failed to provide all required documents or information by the applicable deadline set forth in subsection 2 of section 15 of this act, the denial explanation letter mailed pursuant to subsection 1 must:~~

~~— (a) Indicate the deadline for the submission of the documents or information;~~

~~— (b) List the documents or information that were not provided; and~~

~~— (c) State that the application for a loan modification was denied for that reason.~~

~~— 3. If the borrower submits all required written application materials for a loan modification by the applicable deadline as set forth in subsection 2 or 3 of section 15 of this act and the application is denied, the denial explanation letter must include:~~

~~— (a) The date on which the beneficiary or its authorized agent received the final materials required to complete its review of the borrower's application for a loan modification.~~

~~—(b) The date on which the beneficiary or its authorized agent made the decision to deny the borrower's application for a loan modification;~~

~~—(c) If the beneficiary or its authorized agent was required to consider the borrower for a loan modification under the guidelines of the federal Making Home Affordable Modification Program, the information required to be provided in the borrower notice described in the most current version of the Making Home Affordable Program Handbook for Servicers of Non-GSE Mortgages and any subsequent amendments thereto;~~

~~—(d) The reason or reasons the borrower did not qualify for a loan modification, including, as applicable:~~

~~—(1) If the denial is based on any investor guideline or restriction on loan modifications, a description of the guideline or restriction that resulted in the denial with a copy of the applicable provision in the pooling and servicing agreement or other controlling document evidencing that guideline or restriction;~~

~~—(2) If the denial is based on the borrower's income or expenses, the income and expense figures used to determine the borrower's qualification for a loan modification, including, without limitation, the borrower's gross and net monthly income, property taxes and hazard insurance premiums;~~

~~—(3) If the denial is based on a determination that the net present value of the income stream expected from the modified loan is not greater than the net present value of the income stream that is expected from the loan without modification, all the inputs, assumptions and calculations used to make that determination; and~~

~~—(4) If applicable, a finding that the borrower was previously offered a loan modification but failed to successfully make payments under the terms of the loan modification;~~

~~—(e) The name and contact information of the holder of the note for the borrower's loan;~~

~~—(f) A description of alternatives to avoid the exercise of the trustee's sale other than a loan modification for which the borrower may be eligible, if any, including, without limitation, other loan modification programs, a short sale, a deed in lieu of a trustee's sale or a forbearance, and a list of the steps the borrower must take to be considered for those options. If the borrower has already been approved for another alternative to the exercise of the trustee's sale, information necessary to participate in or complete the alternative should be included;~~

~~—(g) Contact information which the borrower may use to reach the beneficiary or its authorized agent to discuss the reasons for the denial of the loan modification;~~

~~—4. If a borrower is denied a loan modification and the beneficiary or its authorized agent sends a denial explanation letter pursuant to this section, the trustee, beneficiary or authorized agent may record a notice of default and election to sell pursuant to subsection 3 of NRS 107.080 even if the~~

~~borrower initiates a dispute relating to the denial and the dispute has not yet been resolved.} (Deleted by amendment.)~~

Sec. 17. ~~{1. After satisfying the requirements of sections 15 and 16 of this act, as applicable, a mortgage servicer shall take the following action to initiate the process of exercising the trustee's power of sale pursuant to NRS 107.080:~~

~~— (a) Compile in one place a record demonstrating that the initial contact required by subsection 2 of section 14 of this act has occurred or the requirements of subsection 5 of section 14 of this act have been satisfied. The record must:~~

~~— (1) Include the dates and times of, and addresses and telephone numbers used for, the contact or attempted contacts with the borrower, as well as a record of the good faith efforts undertaken pursuant to sections 13 and 15 of this act; and~~

~~— (2) After the recording of a notice of default and election to sell pursuant to subsection 3 of NRS 107.080, be made available to the borrower within 10 business days after a written request for the record by the borrower; and~~

~~— (b) Transmit to the trustee or its authorized agent a declaration of compliance that is signed on behalf of the mortgage servicer by a natural person having personal knowledge of the facts stated in the declaration, or by a natural person with authority to bind the mortgage servicer, who certifies that the declaration is based on records which were made in the regular course of business at or near the time of the events recorded. The declaration of compliance must be included as part of, or attached to, every notice of default and election to sell which is recorded pursuant to subsection 3 of NRS 107.080. A notice of default and election to sell which does not include the declaration of compliance described in this paragraph is void.~~

~~— 2. The declaration of compliance described in paragraph (b) of subsection 1 must be in substantially the following form:~~

~~DECLARATION OF COMPLIANCE~~

~~I. BORROWER CONTACT~~

~~— A. () This loan is not subject to section 14 of this act pursuant to subsection 6 of section 14 of this act.~~

~~— If item (I)(A) is checked, no further information regarding borrower contact is required. If item (I)(A) is not checked, complete item (I)(B):~~

~~— B. () This loan is subject to section 14 of this act, and the beneficiary or authorized agent has complied with the requirements of section 14 of this act by satisfying the applicable contact or due diligence requirements described in subsection 2 or 3 of section 14 of this act. If checked, insert the date that the applicable borrower contact requirements were completed here:~~

~~II. FORECLOSURE AVOIDANCE REVIEW~~

~~— A. () This loan is not subject to section 15 of this act pursuant to (check all that apply):~~

- ~~— () Paragraph (a) of subsection 6 of section 15 of this act.~~
- ~~— () Paragraph (b) of subsection 6 of section 15 of this act.~~
- ~~— () Section 12 of this act.~~
- ~~— If item (II)(A) is checked, no further information regarding borrower solicitation efforts is required. If item (II)(A) is not checked, complete item (II)(B).~~
- ~~— B. () This loan is subject to section 15 of this act (check only one):~~
- ~~— () The borrower was evaluated for a loan modification, was not approved, and the beneficiary or authorized agent sent the borrower a denial explanation letter in compliance with the requirements of subsection 3 of section 16 of this act.~~
- ~~— () The borrower did not submit all required written application materials by the applicable deadline, and the beneficiary or authorized agent sent the borrower a denial explanation letter in compliance with the requirements of subsection 2 of section 16 of this act.~~
- ~~— () The borrower did not initiate an application for a loan modification by the applicable deadline.~~
- ~~— () The borrower was offered a HAMP trial period plan, but did not accept the trial period plan or did not complete the plan.~~
- ~~— () The borrower was offered a permanent loan modification, but the borrower did not accept the modification offered.~~
- ~~— () The borrower was offered and accepted a permanent loan modification, but did not comply with the terms of the modification.~~
- ~~— () The borrower communicated to the beneficiary or authorized agent that he or she does not intend to apply for loan modification.~~

III. PROOF OF OWNERSHIP

- ~~— () Attached is a copy of the note and all assignments and endorsements of the note, along with a declaration attesting to the existence and possession of the original note as well as all the assignments and endorsements, and certifying ownership of the mortgage and the right to foreclose.~~
- ~~— () The trustee, beneficiary or any of their authorized agents are not reasonably able to obtain possession of the note and/or all assignments and endorsements thereof. Attached is a declaration of lost note that complies with the requirements of paragraph (b) of subsection 3 of NRS 107.080. **(Deleted by amendment.)**~~

Sec. 18. ~~[1. If the trustee, beneficiary or authorized agent records a notice of sale pursuant to subsection 5 of NRS 107.080:~~

- ~~— (a) Without completing an evaluation of a timely completed application for a loan modification;~~
- ~~— (b) Before the borrower's deadline for requesting and applying for a loan modification; or~~
- ~~— (c) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~the borrower may seek an order in any court having jurisdiction to enjoin the exercise of the trustee's power of sale with respect to the property until any of these requirements not previously satisfied are satisfied.~~

~~2. If:~~

~~— (a) The trustee, beneficiary or authorized agent records a notice of default and election to sell pursuant to subsection 3 of NRS 107.080;~~

~~— (1) Without completing its evaluation of the borrower's timely completed application for a loan modification;~~

~~— (2) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~— (3) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~— (b) The trustee, beneficiary or authorized agent causes the property at issue to be sold at a trustee's sale pursuant to NRS 107.080; and~~

~~— (c) The property at issue is sold to a bona fide purchaser at a trustee's sale pursuant to NRS 107.080;~~

~~the borrower may recover in a civil action which must be commenced within 1 year following the trustee's sale the greater of treble actual damages or statutory damages in the amount of \$15,000, plus reasonable attorney's fees and costs.~~

~~3. If:~~

~~— (a) The trustee, beneficiary or authorized agent records a notice of default and election to sell pursuant to subsection 3 of NRS 107.080;~~

~~— (1) Without completing its evaluation of the borrower's timely completed application for a loan modification;~~

~~— (2) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~— (3) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~— (b) The trustee, beneficiary or authorized agent causes the property at issue to be sold at a trustee's sale pursuant to NRS 107.080; and~~

~~— (c) Before commencement of an action pursuant to this subsection, the property at issue is sold by the trustee, beneficiary or authorized agent to a bona fide purchaser after a trustee's sale at which the trustee, beneficiary or authorized agent acquired title to the property;~~

~~the borrower may recover in a civil action which must be commenced within 1 year following the trustee's sale the greater of treble actual damages or statutory damages in the amount of \$15,000, plus reasonable attorney's fees and costs. If the trustee, beneficiary or authorized agent had actual notice of the borrower's claim under this subsection before selling the property to a bona fide purchaser, the borrower is entitled to recover statutory damages in the amount of \$20,000 in addition to other damages recoverable under this subsection.~~

~~4. If the trustee, beneficiary or authorized agent:~~

~~—(a) Records a notice of default and election to sell pursuant to subsection 3 of NRS 107.080;~~

~~—(1) Without completing its evaluation of the borrower's timely completed application for a loan modification;~~

~~—(2) Before the borrower's deadline for requesting and applying for a loan modification; or~~

~~—(3) Without sending a denial explanation letter that materially complies with section 16 of this act;~~

~~—(b) Causes the property at issue to be sold at a trustee's sale pursuant to NRS 107.080; and~~

~~—(c) Acquired title to the property at the trustee's sale but has not sold the property to a bona fide purchaser;~~

~~— the borrower may, within 1 year following the trustee's sale, bring an action to void the trustee's sale, to enjoin the recording of any further notice of sale until at least 30 days after any requirement of sections 5 to 18, inclusive, of this act not previously satisfied is satisfied and for reasonable attorney's fees and costs;~~

~~— 5. If the mortgage servicer fails to cause the declaration of compliance required by section 17 of this act to be included with, or attached to, a notice of default and election to sell which is recorded pursuant to subsection 3 of NRS 107.080, the borrower may recover from the mortgage servicer statutory damages of not less than \$1,500 but not more than \$10,000, plus reasonable attorney's fees and costs. If the mortgage servicer records, or causes to be recorded, a materially false declaration of compliance, a borrower may recover from the mortgage servicer statutory damages of not less than \$10,000 but not more than \$25,000, plus attorney's fees and costs. For the purposes of this subsection, the declaration of compliance is not false if it lists any incorrect dates for the date that the requirements described in the declaration were completed, unless the mortgage servicer knowingly included the wrong date on the declaration;~~

~~— 6. A beneficiary or mortgage servicer is not civilly liable under subsections 2, 3 and 4 if, before commencement of an action by the borrower and not later than 180 days after the date of the trustee's sale pursuant to NRS 107.080;~~

~~—(a) The trustee, beneficiary or authorized agent;~~

~~—(1) Voluntarily rescinds the trustee's sale before filing an unlawful detainer action against the borrower;~~

~~—(2) Provides a written notice of that rescission to the borrower not later than 3 days after the rescission;~~

~~—(3) Lists in the notice the steps the beneficiary or mortgage servicer will take before recording any further notice of sale;~~

~~—(4) Materially complies with any requirements of sections 5 to 18, inclusive, of this act that were not previously satisfied not later than 30 days before recording any further notice of sale; and~~

~~— (5) Sends the borrower a written communication stating that the beneficiary or mortgage servicer will not file an unlawful detainer action against the borrower before completing the steps set forth in the letter; or~~

~~— (b) The trustee, beneficiary or authorized agent refrains from filing an unlawful detainer action against the borrower until at least 30 days after the beneficiary or mortgage servicer;~~

~~— (1) Materially complies with all the applicable requirements of sections 5 to 18, inclusive, of this act that were not previously satisfied and sends the borrower a written communication informing the borrower of the actions taken and the outcome of those actions, including, without limitation, any reason for the denial of a loan modification, if applicable; and~~

~~— (2) Sends the borrower a written communication stating the steps that were taken and the outcome, including, without limitation, any reason for the denial of a loan modification, if applicable. If the beneficiary or mortgage servicer determines that the borrower qualifies for a loan modification, it shall rescind the trustee's sale and offer the borrower the loan modification.~~

~~— 7. A borrower shall not have any cause of action under this section for any failure or error that is technical or de minimis in nature.~~

~~— 8. A mortgage servicer, trustee, beneficiary or authorized agent who violates a provision of sections 5 to 18, inclusive, of this act is liable, in addition to any other penalty or remedy that may be provided by law, to a civil penalty of not more than \$10,000 for each violation and not more than \$25,000 for each violation involving the recording of a false or fraudulent declaration of compliance pursuant to section 17 of this act, which may be recovered by civil action on complaint of the Attorney General. All money collected as civil penalties pursuant to this section must be deposited in the State General Fund.~~

~~— 9. A trustee, beneficiary or authorized agent who is licensed by this State and who violates any provision of sections 5 to 18, inclusive, of this act shall be deemed to have violated the law governing that person's license and is subject to enforcement action by the licensing agency.] (Deleted by amendment.)~~

Sec. 19. ~~{NRS 107.080 is hereby amended to read as follows:~~

~~— 107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, and sections 5 to 18, inclusive, of this act, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.~~

~~— 2. The power of sale must not be exercised, however, until:~~

~~— (a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:~~

~~— (1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of~~

record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

~~— (2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;~~

~~— (b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;~~

~~— (c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and~~

~~— (d) Not less than 3 months have elapsed after the recording of the notice.~~

~~— 3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:~~

~~— (a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.[: and]~~

~~— (b) If the property is owner-occupied housing as defined in NRS 107.086, include, or have attached to it, the declaration of compliance required by section 16 of this act and proof of ownership of the note secured by the deed of trust. Proof of ownership of the note must include a copy of the note secured by the deed of trust, evidence of all assignments and endorsements of~~

~~the deed of trust and the note secured by the deed of trust and a declaration which attests to the existence and possession of the note secured by the deed of trust and to all assignments and endorsements of that note and certifies ownership of the deed of trust and the right to exercise the trustee's power of sale. If this proof cannot be located, the trustee, beneficiary or authorized agent shall include with, or attach to, the notice of default and election to sell a declaration signed either by a natural person having personal knowledge of the facts stated within, or by a natural person with authority to bind the trustee, beneficiary or authorized agent, who certifies that the declaration is based upon records that were made in the regular course of business at or near the time of the events recorded, including the following:~~

~~— (1) Facts sufficient to show that the trustee, beneficiary or authorized agent has the right to enforce the note secured by the deed of trust;~~

~~— (2) A statement that the person cannot reasonably obtain possession of the note and a description of the reasonable efforts made to obtain the note; and~~

~~— (3) A description of the terms of the note and any riders attached thereto, including, without limitation:~~

~~— (I) The date on which the note was executed;~~

~~— (II) The parties to the note;~~

~~— (III) The principal amount of the loan;~~

~~— (IV) The amortization period of the loan;~~

~~— (V) The initial interest rate of the loan and, if applicable, the initial date and the frequency of any adjustments to the interest rate, and the index and margin used to calculate the interest rate at the time of any scheduled adjustment; and~~

~~— (VI) The expiration date of any interest-only period, if applicable.~~

~~→ This paragraph must not be construed in derogation of the parties' rights established under NRS 104.3309 or any similar right established under the law of this State.~~

~~— (c) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.~~

~~4. If the property is owner-occupied housing as defined in NRS 107.086, the copy of the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record pursuant to subsection 3 must include:~~

~~— (a) An accounting of all payments made on the obligation secured by the deed of trust from the close of escrow to the date on which the notice of default and election to sell is recorded pursuant to subsection 3 in the form of a spreadsheet showing all account activity;~~

~~— (b) An itemization and description of all late fees, late charges, appraisal fees, property inspection fees, forced placed insurance charges, legal fees and recoverable advances charged on the obligation secured by the deed of trust and an explanation of the reason for such charges;~~

~~—(c) A copy of all interest rate adjustment notices and the two most recent escrow analysis notices sent to the grantor or the person who holds the title of record; and~~

~~—(d) A breakdown of the current escrow charges which indicates how the charges are calculated and the reason for any increase in the charges within the preceding 24 months, and any shortage or surplus in the escrow account in the past three years.~~

~~—5. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:~~

~~—(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;~~

~~—(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;~~

~~—(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated; and~~

~~—(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.~~

~~➔ A notice of sale may not be recorded pursuant to this subsection if the grantor or the person who holds the title of record has entered into a contract to sell the property and the beneficiary of the deed of trust has approved the sale or the grantor or the person who holds the title of record has requested the beneficiary's approval of the sale but the beneficiary has not yet approved or disapproved the sale.~~

~~—[5.] 6. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:~~

~~—(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087 [;] and sections 5 to 18, inclusive, of this act;~~

~~—(b) Except as otherwise provided in subsection [6.] 7, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and~~

~~—(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.~~

~~—[6.] 7. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection [4] 5 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection [5] 6 within 120 days after the date on which the person received actual notice of the sale.~~

~~—[7.] 8. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.~~

~~—[8.] 9. After a sale of property is conducted pursuant to this section, the trustee shall:~~

~~—(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or~~

~~—(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.~~

~~—[9.] 10. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection [8.] 9, the successful bidder:~~

~~—(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and~~

~~—(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection [8] 9 and for reasonable attorney's fees and the costs of bringing the action.~~

~~—[10.] 11. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:~~

~~—(a) A fee of \$150 for deposit in the State General Fund.~~

~~—(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

~~➤ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be~~

~~transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.~~

~~— [11.] 12. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection [10.~~

~~— 12.] 11.~~

~~— 13. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":~~

~~— (a) Means a structure that is comprised of not more than four units.~~

~~— (b) Does not include any time share or other property regulated under chapter 119A of NRS.} (Deleted by amendment.)~~

Sec. 20. ~~[NRS 107.084 is hereby amended to read as follows:~~

~~— 107.084 It is unlawful for a person to willfully remove or deface a notice posted pursuant to subsection [4] 5 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default. In addition to any other penalty, any person who violates this section is liable in the amount of \$500 to any person aggrieved by the removal or defacing of the notice.} (Deleted by amendment.)~~

Sec. 20.3. NRS 107.085 is hereby amended to read as follows:

107.085 1. With regard to a transfer in trust of an estate in real property to secure the performance of an obligation or the payment of a debt, the provisions of this section apply to the exercise of a power of sale pursuant to NRS 107.080 only if:

(a) The trust agreement becomes effective on or after October 1, 2003, and, on the date the trust agreement is made, the trust agreement is subject to the provisions of § 152 of the Home Ownership and Equity Protection Act of 1994, ~~[15 U.S.C. § 1602(aa),]~~ **15 U.S.C. § 1602(bb)** and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32; or

(b) The trust agreement concerns owner-occupied housing as defined in NRS 107.086.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless:

(a) In the manner required by subsection 3, not later than 60 days before the date of the sale, the trustee causes to be served upon the grantor or the person who holds the title of record a notice in the form described in subsection 3; and

(b) If an action is filed in a court of competent jurisdiction claiming an unfair lending practice in connection with the trust agreement, the date of the sale is not less than 30 days after the date the most recent such action is filed.

3. The notice described in subsection 2 must be:

(a) Served upon the grantor or the person who holds the title of record:

(1) Except as otherwise provided in subparagraph (2), by personal service or, if personal service cannot be timely effected, in such other manner as a court determines is reasonably calculated to afford notice to the grantor or the person who holds the title of record; or

(2) If the trust agreement concerns owner-occupied housing as defined in NRS 107.086:

(I) By personal service;

(II) If the grantor or the person who holds the title of record is absent from his or her place of residence or from his or her usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the grantor or the person who holds the title of record at his or her place of residence or place of business; or

(III) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the trust property, delivering a copy to a person there residing if the person can be found and mailing a copy to the grantor or the person who holds the title of record at the place where the trust property is situated; and

(b) In substantially the following form, with the applicable telephone numbers and mailing addresses provided on the notice and, except as otherwise provided in subsection 4, a copy of the promissory note attached to the notice:

NOTICE

YOU ARE IN DANGER OF LOSING YOUR HOME!

YOU MAY HAVE A RIGHT TO PARTICIPATE IN THE STATE OF NEVADA FORECLOSURE MEDIATION PROGRAM IF THE TIME TO REQUEST MEDIATION HAS NOT EXPIRED!

Your home loan is being foreclosed. In not less than 60 days your home ~~will~~ **may** be sold and you ~~will~~ **may** be forced to move. For help, call:

State of Nevada Foreclosure Mediation Program

Consumer Credit Counseling _____

The Attorney General _____

The Division of Mortgage Lending

The Division of Financial Institutions _____

Legal Services _____

Your Lender _____

Nevada Fair Housing Center _____

4. The trustee shall cause all social security numbers to be redacted from the copy of the promissory note before it is attached to the notice pursuant to paragraph (b) of subsection 3.

5. This section does not prohibit a judicial foreclosure.

6. As used in this section, "unfair lending practice" means an unfair lending practice described in NRS 598D.010 to 598D.150, inclusive.

Sec. 20.7. NRS 107.086 is hereby amended to read as follows:

107.086 1. In addition to the requirements of NRS 107.085, the exercise of the power of sale pursuant to NRS 107.080 with respect to any trust agreement which concerns owner-occupied housing is subject to the provisions of this section.

2. The trustee shall not exercise a power of sale pursuant to NRS 107.080 unless the trustee:

(a) Includes with the notice of default and election to sell which is mailed to the grantor or the person who holds the title of record as required by subsection 3 of NRS 107.080:

(1) Contact information which the grantor or the person who holds the title of record may use to reach a person with authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust;

(2) Contact information for at least one local housing counseling agency approved by the United States Department of Housing and Urban Development; ~~and~~

(3) A notice provided by the Mediation Administrator indicating that the grantor or the person who holds the title of record has the right to seek mediation pursuant to this section; and

(4) A form upon which the grantor or the person who holds the title of record may indicate an election to enter into mediation or to waive mediation pursuant to this section and one envelope addressed to the trustee and one envelope addressed to the Mediation Administrator, which the grantor or the person who holds the title of record may use to comply with the provisions of subsection 3;

(b) Serves a copy of the notice upon the Mediation Administrator; and

(c) Causes to be recorded in the office of the recorder of the county in which the trust property, or some part thereof, is situated:

(1) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 3 or 6 which provides that no mediation is required in the matter; or

(2) The certificate provided to the trustee by the Mediation Administrator pursuant to subsection 7 which provides that mediation has been completed in the matter.

3. The grantor or the person who holds the title of record shall, not later than 30 days after service of the notice in the manner required by NRS 107.080, complete the form required by subparagraph ~~(3)~~ ***(4)*** of paragraph (a) of subsection 2 and return the form to the trustee by certified mail, return receipt requested. If the grantor or the person who holds the title of record indicates on the form an election to enter into mediation, the trustee shall notify the beneficiary of the deed of trust and every other person with an interest as defined in NRS 107.090, by certified mail, return receipt requested, of the election of the grantor or the person who holds the title of record to enter into mediation and file the form with the Mediation Administrator, who shall assign the matter to a senior justice, judge, hearing

master or other designee and schedule the matter for mediation. No further action may be taken to exercise the power of sale until the completion of the mediation. If the grantor or the person who holds the title of record indicates on the form an election to waive mediation or fails to return the form to the trustee as required by this subsection, the trustee shall execute an affidavit attesting to that fact under penalty of perjury and serve a copy of the affidavit, together with the waiver of mediation by the grantor or the person who holds the title of record, or proof of service on the grantor or the person who holds the title of record of the notice required by subsection 2 of this section and subsection 3 of NRS 107.080, upon the Mediation Administrator. Upon receipt of the affidavit and the waiver or proof of service, the Mediation Administrator shall provide to the trustee a certificate which provides that no mediation is required in the matter.

4. Each mediation required by this section must be conducted by a senior justice, judge, hearing master or other designee pursuant to the rules adopted pursuant to subsection 8. The beneficiary of the deed of trust or a representative shall attend the mediation. The grantor or a representative shall attend the mediation if the grantor elected to enter into mediation, or the person who holds the title of record or a representative shall attend the mediation if the person who holds the title of record elected to enter into mediation. The beneficiary of the deed of trust shall bring to the mediation the original or a certified copy of the deed of trust, the mortgage note and each assignment of the deed of trust or mortgage note. If the beneficiary of the deed of trust is represented at the mediation by another person, that person must have authority to negotiate a loan modification on behalf of the beneficiary of the deed of trust or have access at all times during the mediation to a person with such authority.

5. If the beneficiary of the deed of trust or the representative fails to attend the mediation, fails to participate in the mediation in good faith or does not bring to the mediation each document required by subsection 4 or does not have the authority or access to a person with the authority required by subsection 4, the mediator shall prepare and submit to the Mediation Administrator a petition and recommendation concerning the imposition of sanctions against the beneficiary of the deed of trust or the representative. The court may issue an order imposing such sanctions against the beneficiary of the deed of trust or the representative as the court determines appropriate, including, without limitation, requiring a loan modification in the manner determined proper by the court.

6. If the grantor or the person who holds the title of record elected to enter into mediation and fails to attend the mediation, the Mediation Administrator shall provide to the trustee a certificate which states that no mediation is required in the matter.

7. If the mediator determines that the parties, while acting in good faith, are not able to agree to a loan modification, the mediator shall prepare and submit to the Mediation Administrator a recommendation that the matter be

terminated. The Mediation Administrator shall provide to the trustee a certificate which provides that the mediation required by this section has been completed in the matter.

8. The Supreme Court shall adopt rules necessary to carry out the provisions of this section. The rules must, without limitation, include provisions:

(a) Designating an entity to serve as the Mediation Administrator pursuant to this section. The entities that may be so designated include, without limitation, the Administrative Office of the Courts, the district court of the county in which the property is situated or any other judicial entity.

(b) Ensuring that mediations occur in an orderly and timely manner.

(c) Requiring each party to a mediation to provide such information as the mediator determines necessary.

(d) Establishing procedures to protect the mediation process from abuse and to ensure that each party to the mediation acts in good faith.

(e) Establishing a total fee of not more than \$400 that may be charged and collected by the Mediation Administrator for mediation services pursuant to this section and providing that the responsibility for payment of the fee must be shared equally by the parties to the mediation.

9. Except as otherwise provided in subsection 11, the provisions of this section do not apply if:

(a) The grantor or the person who holds the title of record has surrendered the property, as evidenced by a letter confirming the surrender or delivery of the keys to the property to the trustee, the beneficiary of the deed of trust or the mortgagee, or an authorized agent thereof; or

(b) A petition in bankruptcy has been filed with respect to the grantor or the person who holds the title of record under chapter 7, 11, 12 or 13 of Title 11 of the United States Code and the bankruptcy court has not entered an order closing or dismissing the case or granting relief from a stay of foreclosure.

10. A noncommercial lender is not excluded from the application of this section.

11. The Mediation Administrator and each mediator who acts pursuant to this section in good faith and without gross negligence are immune from civil liability for those acts.

12. As used in this section:

(a) "Mediation Administrator" means the entity so designated pursuant to subsection 8.

(b) "Noncommercial lender" means a lender which makes a loan secured by a deed of trust on owner-occupied housing and which is not a bank, financial institution or other entity regulated pursuant to title 55 or 56 of NRS.

(c) "Owner-occupied housing" means housing that is occupied by an owner as the owner's primary residence. The term does not include any time share or other property regulated under chapter 119A of NRS.

Sec. 21. ~~[NRS 107.087 is hereby amended to read as follows:~~

~~—107.087— 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default and election to sell and the notice of sale must:~~

~~—(a) Be posted in a conspicuous place on the property not later than 3 business days after the notice of default and election to sell or the notice of sale is recorded pursuant to NRS 107.080; and~~

~~—(b) Include, without limitation:~~

~~—(1) The physical address of the property; and~~

~~—(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.~~

~~—2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.~~

~~—3. A separate notice must be posted in a conspicuous place on the property and mailed, with a certificate of mailing issued by the United States Postal Service or another mail delivery service, to any tenant or subtenant, if any, other than the grantor or the grantor's successor in interest, in actual occupation of the premises not later than 3 business days after the notice of the sale is given pursuant to subsection [4] 5 of NRS 107.080. The separate notice must be in substantially the following form:~~

NOTICE TO TENANTS OF THE PROPERTY

~~Foreclosure proceedings against this property have started, and a notice of sale of the property to the highest bidder has been issued.~~

~~You may either: (1) terminate your lease or rental agreement and move out; or (2) remain and possibly be subject to eviction proceedings under chapter 40 of the Nevada Revised Statutes. Any subtenants may also be subject to eviction proceedings.~~

~~Between now and the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the landlord.~~

~~After the date of the sale, you may be evicted if you fail to pay rent or live up to your other obligations to the successful bidder, in accordance with chapter 118A of the Nevada Revised Statutes.~~

~~Under the Nevada Revised Statutes eviction proceedings may begin against you after you have been given a notice to quit.~~

~~If the property is sold and you pay rent by the week or another period of time that is shorter than 1 month, you should generally receive notice after not less than the number of days in that period of time.~~

~~If the property is sold and you pay rent by the month or any other period of time that is 1 month or longer, you should generally receive notice at least 60 days in advance.~~

~~Under Nevada Revised Statutes 40.280, notice must generally be served on you pursuant to chapter 40 of the Nevada Revised Statutes and may be served by:~~

~~—(1) Delivering a copy to you personally in the presence of a witness;~~

~~—(2) If you are absent from your place of residence or usual place of business, leaving a copy with a person of suitable age and discretion at either place and mailing a copy to you at your place of residence or business; or~~

~~—(3) If your place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, posting a copy in a conspicuous place on the leased property, delivering a copy to a person residing there, if a person can be found, and mailing a copy to you at the place where the leased property is.~~

~~If the property is sold and a landlord, successful bidder or subsequent purchaser files an eviction action against you in court, you will be served with a summons and complaint and have the opportunity to respond. Eviction actions may result in temporary evictions, permanent evictions, the awarding of damages pursuant to Nevada Revised Statutes 40.360 or some combination of those results.~~

~~Under the Justice Court Rules of Civil Procedure:~~

~~—(1) You will be given at least 10 days to answer a summons and complaint;~~

~~—(2) If you do not file an answer, an order evicting you by default may be obtained against you;~~

~~—(3) A hearing regarding a temporary eviction may be called as soon as 11 days after you are served with the summons and complaint; and~~

~~—(4) A hearing regarding a permanent eviction may be called as soon as 20 days after you are served with the summons and complaint.~~

~~—4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.} **(Deleted by amendment.)**~~

Sec. 22. ~~[NRS 459.646 is hereby amended to read as follows:]~~

~~—459.646 1. A person who, without participating in the management of a parcel of real property, holds or is the beneficiary of evidence of title to the property primarily to protect a security interest in the property is not a responsible party with respect to a release of a hazardous substance on the property if:~~

~~—(a) The owner of the property is relieved from liability under NRS 459.610 to 459.658, inclusive, with respect to the release;~~

~~—(b) The owner or holder of evidence of title did not cause the release; and~~

~~—(c) The owner or holder of evidence of title does not participate actively in decisions concerning hazardous substances on the property.~~

~~—2. A lender to a prospective purchaser who has filed an application to participate in the program pursuant to NRS 459.634 or a lender who forecloses his or her security interest in property pursuant to NRS 40.430 to 40.450, inclusive, or 107.080 to 107.110, inclusive, and sections 5 to 18, inclusive, of this act and within a reasonable period after the foreclosure, not to exceed 2 years, sells, transfers or conveys the property to a prospective~~

~~purchaser who has filed an application to participate in the program pursuant to NRS 459.634 is not a responsible party solely as a result of:~~

- ~~— (a) Foreclosing a security interest in the property; or~~
 - ~~— (b) Making a loan to the prospective purchaser if the loan:~~
 - ~~— (1) Is to be used for acquiring property or removing or remediating hazardous substances on property; and~~
 - ~~— (2) Is secured by the property that is to be acquired or on which is located the hazardous substances that are to be removed or remediated.]~~
- (Deleted by amendment.)**

Sec. 23. The amendatory provisions of ~~[sections 4 to 22, inclusive, of]~~ this act apply only with respect to trust agreements ~~[which concern owner-occupied housing, as defined in NRS 107.086,]~~ for which a notice of default is recorded on or after July 1, 2011.

Sec. 24. 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 deletes the notice provisions of the bill and replaces it with specific revisions relating to the notice that is sent to homeowners, including a statement that the grantor has a right to seek foreclosure mediation; and appropriate contact information for the Foreclosure Mediation Program and the Division of Mortgage Lending in the Department of Business and Industry.

The intent is to continue the Foreclosure Mediation Program as approved by the 75th Legislature in 2009, while improving notification requirements and assistance to the homeowner facing foreclosure.

Amendment adopted.

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

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

Senate Bill No. 60.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 832.

"SUMMARY—Revises provisions relating to the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans. (BDR 58-410)"

"AN ACT relating to energy; revising certain provisions governing the administration of the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans; authorizing the Director of the Office of Energy to **enter into agreements and cooperate with third parties for certain purposes; authorizing the Director to** make loans from the Fund to qualified applicants for the construction of an energy efficiency project or an

energy conservation project, the construction, expansion or operation of a renewable energy system or the manufacturing of components of a renewable energy system; authorizing the Director to use the interest earned from money in loans from the Fund and interest earned on loans made from the Fund to defray certain costs and expenses; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Fund for Renewable Energy, Energy Efficiency and Energy Conservation Loans and authorizes the Director of the Office of Energy to make loans from the Fund for the construction of certain renewable energy projects. (NRS 701.545-701.595) Section 7 of this bill authorizes the Director to enter into agreements or cooperate with third parties to provide for enhanced leveraging, additional financing mechanisms or certain programs for the purpose of expanding the scope of financial assistance available from the Fund. Section 8 of this bill expands the scope of financial assistance available from the Fund to include loans to qualified applicants for the construction of energy conservation projects, the construction of energy efficiency projects and the manufacturing of components of a renewable energy system, in addition to loans that are currently available to owners or operators of renewable energy systems for the construction of renewable energy projects. Section 8 additionally ~~excludes from participation in the loan program applicants who have~~ requires the Director, before approving an applicant for financial assistance from the Fund, to consider any other funding sources available to the applicant if the applicant received money for the energy efficiency or energy conservation project from another governmental entity and further authorizes the Director to use the interest earned from money in the Fund and interest earned on loans made from the Fund to defray certain costs and expenses. Section 4 of this bill expands the scope of financial assistance available from the Fund to include loans to qualified governmental entities and other applicants for the construction, expansion or operation of renewable energy systems or for the manufacturing of components of a renewable energy system.

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

Section 1. Chapter 701 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Energy conservation project" means a project designed, intended or used to improve energy conservation or to reduce the wasteful, inefficient, unnecessary or uneconomical use of energy.*

Sec. 3. *"Energy efficiency project" means a project designed, intended or used to improve energy efficiency or to reduce the consumption of energy that is necessary to provide a certain product, function or service.*

Sec. 4. *"Qualified applicant" means a person or governmental entity engaged in:*

1. *The construction or operation of an energy conservation project;*
2. *The construction or operation of an energy efficiency project;*
3. *The construction, expansion or operation of a renewable energy system; or*

4. *The manufacturing of components of a renewable energy system.*

Sec. 5. NRS 701.545 is hereby amended to read as follows:

701.545 As used in NRS 701.545 to 701.595, inclusive, ***and sections 2, 3 and 4 of this act***, the words and terms defined in NRS 701.550 to 701.570, inclusive, ***and sections 2, 3 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 6. NRS 701.580 is hereby amended to read as follows:

701.580 1. The interest and income earned on money in the Fund and the Account for Set-Aside Programs must be credited to the Fund and the Account for Set-Aside Programs, respectively.

2. All payments of principal and interest on all loans made to a ~~{renewable energy system}~~ ***qualified applicant*** and all proceeds from the sale, refunding or prepayment of obligations of a ~~{renewable energy system}~~ ***qualified applicant*** acquired or loans made in carrying out the purposes of the Fund must be deposited in the State Treasury for credit to the Fund.

3. The Director may accept gifts, contributions, grants and bequests of money from any public or private source. The money so accepted must be deposited in the State Treasury for credit to the Fund, or the Account for Set-Aside Programs, and can be used to provide money from the State to match the federal grant, as required by the American Recovery and Reinvestment Act.

4. Only federal money deposited in a separate subaccount of the Fund, including repayments of principal and interest on loans made solely from federal money, and interest and income earned on federal money in the Fund, may be used to benefit ~~{renewable energy systems not governmentally owned.}~~ ***a qualified applicant who is not a governmental entity.***

Sec. 7. NRS 701.585 is hereby amended to read as follows:

701.585 1. The Director shall:

(a) Use the money in the Fund and the Account for Set-Aside Programs for the purposes set forth in the American Recovery and Reinvestment Act.

(b) Determine whether ~~{renewable energy systems which receive}~~ ***a qualified applicant who receives*** money or other assistance from the Fund or the Account for Set-Aside Programs ~~{comply}~~ ***complies*** with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

2. The Director may:

(a) Prepare and enter into required agreements with the Federal Government for the acceptance of grants of money for the Fund and the Account for Set-Aside Programs.

(b) Bind the Office of Energy to terms of the required agreements.

(c) Accept grants made pursuant to the American Recovery and Reinvestment Act.

(d) Manage the Fund and the Account for Set-Aside Programs in accordance with the requirements and objectives of the American Recovery and Reinvestment Act.

(e) Provide services relating to management and administration of the Fund and the Account for Set-Aside Programs, including the preparation of any agreement, plan or report.

(f) Perform, or cause to be performed by agencies or organizations through interagency agreement, contract or memorandum of understanding, set-aside programs pursuant to the American Recovery and Reinvestment Act.

(g) Enter into agreements or cooperate with third parties to provide for enhanced leveraging of money in the Fund, additional financing mechanisms or any other program or combination of programs for the purpose of expanding the scope of financial assistance available from the Fund.

3. The Director shall not commit any money in the Fund for expenditure for the purposes set forth in NRS 701.590 without obtaining the prior approval of the Legislature or the Interim Finance Committee if the Legislature is not in session.

Sec. 8. NRS 701.590 is hereby amended to read as follows:

701.590 1. Except as otherwise provided in **subsection 6 and** NRS 701.580, money in the Fund, including repayments of principal and interest on loans, and interest and income earned on money in the Fund, may be used only to make loans at a rate of not more than 3 percent to ~~renewable energy systems~~ **a qualified applicant** for ~~the~~ :

(a) The construction of an energy conservation project;

(b) The construction of an energy efficiency project;

(c) The construction or expansion of a renewable energy ~~projects~~ system; or

(d) The manufacturing of components of a renewable energy system.

2. Money in the Account for Set-Aside Programs may be used only to fund set-aside programs authorized by the American Recovery and Reinvestment Act. Money in the Account for Set-Aside Programs may be transferred to the Fund pursuant to the American Recovery and Reinvestment Act.

3. A ~~renewable energy system which~~ **qualified applicant who** requests a loan or other financial assistance must demonstrate that ~~it~~ **the qualified applicant** has:

(a) Complied with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto; or

(b) Agreed to take actions that are needed to ensure that ~~it~~ **the qualified applicant** has the capability to comply with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

4. Money from the Fund may not be given to **a qualified applicant for the expansion of** an existing renewable energy system unless ~~it~~ **the**

qualified applicant has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto. ~~{A new renewable energy system, to}~~ **To** receive such funding ~~{,}~~ **for the construction of a new renewable energy system, a qualified applicant** must demonstrate that ~~{it}~~ **the qualified applicant** has the technical, managerial and financial capability to ensure compliance with the American Recovery and Reinvestment Act and regulations adopted pursuant thereto.

5. The Director shall ~~{not loan any money from the Fund to an}, before approving an applicant for financial assistance from the Fund, consider whether the applicant ~~{who}~~ has received or is eligible to receive from any other governmental entity any money or other financial incentive, including, without limitation, any grant, loan, tax credit or abatement of any tax for the purpose of financing in whole or in part the energy efficiency or energy conservation project of the applicant.~~

6. The Director may use the interest earned on money in the Fund and the interest earned on loans made from the Fund to defray, in whole or in part, the costs and expenses of administering the Fund and to carry out the purposes of NRS 701.545 to 701.595, inclusive, and sections 2, 3 and 4 of this act.

7. The Director shall give preference to qualified applicants seeking funding or assistance from the Fund for larger energy conservation projects, energy efficiency projects or renewable energy systems. The Director shall, by regulation, define "larger energy conservation projects, energy efficiency projects or renewable energy systems" for purposes of this section.

Sec. 9. NRS 701.595 is hereby amended to read as follows:

701.595 The Director may adopt such regulations as are necessary to carry out the provisions of NRS 701.545 to 701.595, inclusive ~~{,}~~ **and sections 2, 3 and 4 of this act.**

Sec. 10. This act becomes 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.

The amendment includes the requirement that the Director can enter into agreements or cooperate with third parties to provide for enhanced leveraging of money into the Renewable Energy Fund.

Amendment adopted.

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

Assembly Bill No. 117.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 831.

"SUMMARY—~~[Revises]~~ **Temporarily revises** provisions governing the required minimum number of school days in public schools. (BDR 34-91)"

"AN ACT relating to education; authorizing the board of trustees of a school district and the governing body of a charter school to request **, for the 2011-2013 biennium,** a waiver from the required minimum number of school days in a school year during an economic hardship; setting forth certain provisions governing a furlough program of employees of school districts and charter schools as the program relates to the Public Employees' Retirement System; **expiring the provisions of this act;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, each school district is required to schedule and provide annually a minimum of 180 days of school in the schools of the school district and a charter school is required to schedule and provide at least as many days of instruction as are required of other public schools in the school district in which the charter school is located. (NRS 386.550, 388.090) ~~[Section 2]~~ **For the 2011-2013 biennium, section 6.5** of this bill authorizes the board of trustees of a school district and the governing body of a charter school to request a waiver of not more than ~~110 school~~ **5 noninstructional** days from the required minimum number of school days for a school year **in that biennium** during an economic hardship to avoid the layoff of teachers and other educational personnel employed by the school district or charter school. A request for a waiver must be reviewed by the Superintendent of Public Instruction and, if approved, transmitted to the Interim Finance Committee, which makes the final determination of whether to grant a waiver. For purposes of requesting a waiver from the required minimum school days, the circumstances in which an economic hardship exists for a school district or charter school are identical to the circumstances in which an economic hardship exists under existing law for a school district or charter school to request a waiver from the required minimum expenditures for textbooks, instructional supplies, instructional software and instructional hardware. (NRS 387.2065)

The 2009 Session of the Legislature enacted provisions requiring furlough leave of certain state employees and set forth provisions relating to the furlough program and the manner in which the program is carried out as it relates to the Public Employees' Retirement System. (Chapter 391, Statutes of Nevada 2009, p. 2160) **Section 7** of this bill sets forth the intent of the Legislature in the establishment of a program certified by the board of trustees of a school district or the governing body of a charter school whereby employees of school districts and charter schools who are members of the Public Employees' Retirement System and who take furlough leave due to extreme fiscal need be held harmless in the accumulation of retirement service credit and reported salary. **Section 7** further sets forth provisions concerning the furlough leave as it relates to the Public Employees'

Retirement System in a manner similar to the furlough program of state employees.

Section 8 of this bill expires the provisions of this bill on June 30, 2013.

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. 6.5. 1. Notwithstanding the provisions of NRS 386.550, 388.090, 388.537 and 388.842, for the 2011-2013 biennium the board of trustees of a school district or the governing body of a charter school that experiences an economic hardship may submit a written request to the Superintendent of Public Instruction on a form prescribed by the Department of Education for a waiver of not more than 5 noninstructional days of the required minimum number of school days in a school year to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school.

2. Upon receipt of a written request pursuant to subsection 1, the Superintendent of Public Instruction shall consider the request and determine whether an economic hardship exists for the school district or charter school and whether a waiver of the required number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or charter school. The Superintendent of Public Instruction may request additional information from the applicant in making the determination. If the Superintendent of Public Instruction determines that an economic hardship exists for the applicant and that a waiver of the required minimum number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the applicant, the Superintendent shall forward the written request to the Interim Finance Committee, including the basis for the Superintendent's determination and any recommendations for the number of school days that may be waived, which must not exceed 5 noninstructional days.

3. Upon receipt of a written request from the Superintendent of Public Instruction pursuant to subsection 2, the Interim Finance Committee shall consider the request and determine whether an economic hardship exists for the school district or charter school and whether a waiver of the required minimum number of school days is necessary to avoid, during the economic hardship, the layoff of teachers and other educational personnel employed by the school district or

charter school. The Interim Finance Committee may request additional information from the applicant in making the determination. If the Interim Finance Committee grants a waiver, the Committee shall by resolution set forth:

- (a) The grounds for its determination; and**
- (b) The number of school days that may be waived for the school year by the school district or charter school, which must not exceed 5 noninstructional days.****4. For the purposes of this section, an economic hardship exists for a school district or charter school if:**

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

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

5. A waiver granted pursuant to this section does not affect any right or remedy available pursuant to the provisions of chapter 288 of NRS, any obligation of the board of trustees of a school district or the governing body of a charter school pursuant to chapter 288 of NRS or any contract negotiated by the board of trustees of a school district or the governing body of a charter school pursuant to chapter 288 of NRS.

Sec. 7. 1. It is the intent of the Legislature that if the board of trustees of a school district or the governing body of a charter school certifies a furlough program whereby employees of the school district or charter school who are members of the Public Employees' Retirement System and who take furlough leave pursuant to the program due to extreme fiscal need be held harmless in the accumulation of retirement service credit and reported salary pursuant to chapter 286 of NRS.

2. If the board of trustees of a school district or the governing body of a charter school certifies a furlough program, the program must require that any furlough time taken by the employees of the school district or charter school:

- (a) Be noninstructional days or minutes, as applicable; and**
- (b) Not exceed the number of professional development days or minutes and other noninstructional days or minutes which provide time for teachers before and after the school year and which the school district or charter school used for the 2010-2011 school year.**

3. Except as otherwise required as a result of NRS 286.537 and notwithstanding the provisions of NRS 286.481, if an employee of a school district or charter school who participates in the Public Employees' Retirement System is required to take furlough leave pursuant to a furlough program certified by the board of trustees of the school district or the governing body of the charter school, the employee is entitled to receive full service credit for the time taken as furlough leave in the same manner as service credit is computed pursuant to NRS 286.501 if:

(a) The employee does not take more than **the equivalent of** 96 hours of furlough leave in a school year; and

(b) The board of trustees of the school district or the governing body of the charter school certifies to the Public Employees' Retirement System that the school district or charter school is participating in a furlough program and that the furlough leave which is reported for the employee is taken in accordance with the requirements of that program.

~~{3-}~~ **4.** In any month in which ~~{a day of}~~ furlough leave is taken, an employee is entitled to receive full-time service credit in the same manner as service credit is computed pursuant to NRS 286.501 for the furlough leave in accordance with the normal workday for the employee. An employee who is less than full-time is entitled to service credit in the same manner as service credit is computed pursuant to NRS 286.501 and in the same manner and to the same extent as though the employee had worked the ~~{hours}~~ **time** taken as furlough leave.

~~{4-}~~ **5.** When a member is on furlough leave pursuant to this section as certified by the board of trustees of the school district or the governing body of the charter school, the board of trustees or the governing body must:

(a) Include all information required by the Public Employees' Retirement System on the board of trustees' or governing body's regular monthly retirement report as provided in NRS 286.460; and

(b) Pay all required employer and employee contributions to the Public Employees' Retirement System based on the compensation that would have been paid to the member but for the member's participation in the program. The board of trustees of the school district and the governing body of the charter school may recover from the employee the amount of the employee contributions set forth in NRS 286.410.

~~{5-}~~ **6.** Except as otherwise required by this section, the terms and conditions of any furlough program certified by the board of trustees of the school district or the governing body of a charter school must be negotiated pursuant to chapter 288 of NRS.

~~{6-}~~ **7.** Service credit under a furlough program certified by the board of trustees of a school district or the governing body of a charter school must be computed according to the school year.

~~{7-}~~ **8.** As used in this section, "member" has the meaning ascribed to it in NRS 286.050.

Sec. 7.5. The provisions of this act apply to the 2011-2012 school year and the 2012-2013 school year.

Sec. 8. ~~{1. This section and sections 1 to 6, inclusive, of this act become effective on July 1, 2011.~~

~~2. Section 7 of this act~~ **This act** becomes effective ~~{on July 1, 2011,}~~ **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 is an important amendment that changes the policy approved by the Assembly which creates a process for a school district or charter school to apply for a waiver from the required 180 minimum number of school days, during times of economic hardship. The legislation allows for a waiver of no more than five non-instructional days or minutes, and requires any furlough time negotiated by the school district or charter school be taken from the number of non-instructional days or minutes as established during the current school year, including the equivalent of not more than five professional development days, or other non-instructional days outside the 180-day minimum requirement. The amendment ensures that if there are furloughs taken that they are taken on non-instructional days, and not on days that would take away from student learning.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 199, 240, 265, 273, 301, 360, 376, 413, 504, 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. 205.

The following Assembly amendment was read:

Amendment No. 653.

"SUMMARY—Requires national certification for a registered nurse to receive a certificate of recognition as an advanced practitioner of nursing. (BDR 54-84)"

"AN ACT relating to nursing; requiring national certification for a registered nurse to receive a certificate of recognition as an advanced practitioner of nursing; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the State Board of Nursing is authorized to grant a certificate of recognition as an advanced practitioner of nursing to a registered nurse who meets certain requirements. (NRS 632.237) This bill adds the requirement that to obtain a certificate of recognition as an advanced practitioner of nursing in Nevada the registered nurse must be certified as an advanced practitioner of nursing by a nationally recognized certification agency effective July 1, 2014. **However, an advanced practitioner of nursing who receives a certificate of recognition before that date is exempt from that requirement.**

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

Section 1. NRS 632.237 is hereby amended to read as follows:

632.237 1. The Board may grant a certificate of recognition as an advanced practitioner of nursing to a registered nurse who ~~has~~ :

(a) *Has* completed an educational program designed to prepare a registered nurse to:

- ~~{(a)}~~ (1) Perform designated acts of medical diagnosis;
- ~~{(b)}~~ (2) Prescribe therapeutic or corrective measures; and
- ~~{(c)}~~ (3) Prescribe controlled substances, poisons, dangerous drugs and devices ~~;~~

↪;

(b) ~~{Submits}~~ *Except as otherwise provided in subsection 4, submits proof that he or she is certified as an advanced practitioner of nursing by the American Board of Nursing Specialties, the National Commission for Certifying Agencies of the Institute for Credentialing Excellence, or their successor organizations, or any other nationally recognized certification agency approved by the Board;* and ~~{who meets the}~~

(c) *Meets* any other requirements established by the Board for such certification.

2. An advanced practitioner of nursing may:

- (a) Engage in selected medical diagnosis and treatment; and
- (b) If authorized pursuant to NRS 639.2351, prescribe controlled substances, poisons, dangerous drugs and devices,
↪ pursuant to a protocol approved by a collaborating physician. A protocol must not include and an advanced practitioner of nursing shall not engage in any diagnosis, treatment or other conduct which the advanced practitioner of nursing is not qualified to perform.

3. The Board shall adopt regulations:

- (a) Specifying ~~{the}~~ *any additional* training, education and experience necessary for certification as an advanced practitioner of nursing.
- (b) Delineating the authorized scope of practice of an advanced practitioner of nursing.
- (c) Establishing the procedure for application for certification as an advanced practitioner of nursing.

4. The provisions of paragraph (b) of subsection 1 do not apply to an advanced practitioner of nursing who obtains a certificate of recognition before July 1, 2014.

Sec. 2. This act becomes effective on July 1, 2014.

Senator Schneider moved that the Senate concur in the Assembly amendment to Senate Bill No. 205.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 210.

The following Assembly amendment was read:

Amendment No. 702.

"SUMMARY—Revises provisions governing the regulation of certain food processing establishments. (BDR 40-564)"

"AN ACT relating to food establishments; ~~requiring a food processing establishment that processes or otherwise prepares wholesale food to comply with nationally recognized guidelines for the manufacturing and processing of food; providing for~~ **allowing a health authority to require** the testing of ~~such processed~~ **processed or otherwise prepared by a food processing establishment** under certain circumstances; requiring ~~the recording and review of~~ **records of the** test results ~~to be maintained and the results to be reported if contamination is indicated;~~ providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth provisions governing the regulation of food establishments, including, without limitation, establishments that manufacture or process food intended for human consumption. (Chapter 446 of NRS) Existing law also requires that such provisions be enforced by the officers and agents of the Health Division of the Department of Health and Human Services and the officers and agents of the local boards of health. (NRS 446.050, 446.940) This bill ~~is: (1) requires a food processing establishment that processes or otherwise prepares wholesale food intended for human consumption to comply with nationally recognized guidelines for the manufacturing and processing of food; (2)~~ authorizes the health authority, under certain circumstances, to require that the food processed or otherwise prepared in such establishments be tested for the presence of **certain** contaminants ~~. is: (3)~~ **The bill further** requires that the cost of the testing be paid by the establishments ~~is: (4)~~ **and** requires that the testing be conducted in accordance with nationally recognized laboratory standards ~~. is: (5)~~ **Finally, this bill** requires **records of the results of any tests to be retained for at least 2 years and requires** timely reporting to the health authority if the testing indicates contamination ~~. is: and (6) requires the recording and review of test results.~~

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

Section 1. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. A food processing establishment shall comply with nationally recognized guidelines for the manufacturing and processing of food, including, without limitation:~~

~~—(a) Identifying hazards from biological, chemical, physical and radiological sources;~~

~~—(b) Establishing and carrying out preventive controls to:~~

~~—(1) Minimize significantly the contamination of food; or~~

~~—(2) Prevent hazards from contaminating food; and~~

~~—(c) Verifying that preventive controls are effectively minimizing or preventing the contamination of food through the use of:~~

~~—(1) Programs for environmental testing;~~

~~—(2) Programs for the testing of products; or~~

~~—(3) Other appropriate means.~~

~~—2.† Except as otherwise provided in this subsection, whenever the health authority determines there are reasonable grounds to suspect that the food processed or otherwise prepared by a food processing establishment may constitute a substantial health hazard, the health authority may require that the food processing establishment have its food tested for the presence of ~~any~~† contaminants ~~†~~ typically associated with the suspected health hazard. When carrying out the provisions of this subsection, the health authority shall comply with the Federal Food Safety Modernization Act, 21 U.S.C. 2201, et seq., and any regulations adopted pursuant thereto. The provisions of this subsection do not apply to the extent that a food processing establishment is under investigation for the same purpose pursuant to federal law.~~

~~†3.† 2. If the health authority requires pursuant to subsection ~~†2†~~ 1 that the food processed or otherwise prepared by a food processing establishment be tested:~~

~~(a) The food processing establishment:~~

~~(1) Is responsible for the cost of the testing; and~~

~~(2) May perform such testing itself or cause the testing to be performed by a third party.~~

~~(b) The testing must be conducted in a manner that is consistent with nationally recognized laboratory standards.~~

~~†4.† 3. Records of the results of any tests conducted pursuant to this section must be retained by the food processing establishment to which the tests pertain for a period of not less than 2 years. The food processing establishment shall, upon request, make those records available to the health authority for its review.~~

~~†5.† 4. If testing required pursuant to subsection ~~†2†~~ 1 indicates that the food processed or otherwise prepared by a food processing establishment is contaminated, the person or entity that conducted the testing shall, within 24 hours after obtaining the test results, report those test results to the health authority.~~

~~† 6. As used in this section:~~

~~(a) "Food processing establishment" means a commercial establishment which processes or otherwise prepares and packages wholesale food for human consumption. The term includes, without limitation, establishments that process:~~

~~—(1) Vitamins;~~

~~—(2) Food supplements;~~

~~—(3) Food additives;~~

~~—(4) Spices;~~

~~—(5) Tea;~~

~~—(6) Coffee;~~

~~—(7) Salsa;~~

~~—(8) Jelly or jam; or~~

- ~~— (9) Condiments.~~
- ~~— (b) "Substantial health hazard" includes, without limitation:~~
- ~~— (1) Food from an unapproved or unknown source.~~
- ~~— (2) Food that is adulterated, labeled improperly, misbranded, contaminated, showing evidence of temperature abuse or otherwise unfit for human consumption.~~
- ~~— (3) Food held or kept under any condition that supports the rapid growth of bacteria, unless time is used properly as a public health control.~~
- ~~— (4) Food that is or was handled by a person who:~~
 - ~~— (I) Is infected with a communicable disease; or~~
 - ~~— (II) Is not practicing strict standards of cleanliness or personal hygiene.~~
- ~~— (5) Food that has come into contact with equipment, utensils or working surfaces which are not cleaned and sanitized effectively.~~
- ~~— (6) Food prepared in an area where sewage or liquid waste is not disposed of in an approved and sanitary manner.~~
- ~~— (7) Food prepared in an area where contamination may result from insects, rodents or other animals.~~
- ~~— (8) Food prepared in an area where contamination may result from toxic materials which are stored or used improperly.~~
- ~~— (c) "Wholesale food" means food that is processed or otherwise prepared at a food processing establishment and is:~~
 - ~~— (1) Used subsequently at another food processing establishment; or~~
 - ~~— (2) Served to the public at a food establishment.~~

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

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

Senator Copening moved that the Senate concur in the Assembly amendment to Senate Bill No. 210.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 246.

The following Assembly amendment was read:

Amendment No. 703.

"SUMMARY—~~[Makes various changes concerning required training for employees who administer medication to a child at]~~ **Requires** certain entities that have custody of ~~[the]~~ **a** child pursuant to the order of a court ~~[.]~~ **to adopt a policy concerning the administration and management of medication.** (BDR 40-796)"

"AN ACT relating to protection of children; requiring ~~[the Administrator of the Health Division of the Department of Health and Human Services to approve or provide, to the extent possible, for training programs]~~ **certain entities that have custody of children pursuant to the order of a court to adopt a policy** concerning the administration and management of medication

~~;~~ ~~for employees of certain entities that have custody of children pursuant to the order of a court;~~ requiring ~~for certain~~ **such entities to ensure that** employees ~~of certain entities that have custody of such children successfully to complete a training program before administering~~ **who will administer** medication to a child ~~to~~ **receive a copy of and understand the policy; providing a penalty;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain employees of certain entities that have custody of children pursuant to the order of a court to receive training on a variety of topics, including the administration of medication to children. (NRS 62B.250, 63.190, 424.0365, 432A.177, 433B.175, 449.037) ~~Section 1 of this bill requires the Administrator of the Health Division of the Department of Health and Human Services, to the extent possible, to ensure that adequate training is available in this State to provide necessary instruction concerning the administration and management of medication to employees of public and private entities that have custody of children pursuant to the order of a court. In addition, the Administrator is required to maintain a list of approved training programs and make the list available on the Internet website of the Department.~~ **Section 2** of this bill requires ~~for certain employees of~~ a medical facility that accepts custody of children pursuant to the order of a court ~~successfully to complete a training program that has been approved by the Administrator before the employee may be allowed to administer~~ **to adopt a policy concerning the administration and management of medication and to ensure that each employee of the medical facility who will administer** medication to a child in the facility ~~to~~ **receives a copy of and understands the policy.** ~~Sections 8-12~~ **8.5-12.5** of this bill impose the same requirement ~~concerning the completion of a training program~~ on: ~~an employee of:~~ (1) a public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children; (2) a state facility for the detention or commitment of children; (3) a specialized foster home or a group foster home; (4) a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court; and (5) a treatment facility and any other facility of the Division of Child and Family Services of the Department of Health and Human Services into which a child may be committed by a court order.

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

Section 1. ~~{Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~—1. The Administrator shall, to the extent possible, ensure that adequate training concerning the administration and management of medication is available to employees of a governmental facility for children, a private facility for children, a group foster home or a specialized foster home that~~

~~has custody of children pursuant to the order of a court. Such training must include, without limitation, instruction concerning the manner in which to:~~

- ~~—(a) Document the orders of the treating physician;~~
- ~~—(b) Administer medication to a child;~~
- ~~—(c) Store, handle and dispose of medication;~~
- ~~—(d) Document the administration of medication and any errors in the administration of medication;~~
- ~~—(e) Minimize errors in the administration of medication; and~~
- ~~—(f) Address errors in the administration of medication.~~

~~2. To ensure that adequate training is available pursuant to subsection 1, the Administrator may:~~

- ~~—(a) Approve training programs offered by public or private entities that have the appropriate expertise to provide such training; and~~
- ~~—(b) To the extent that money is available for that purpose, provide for training programs through the Health Division.~~

~~3. The Administrator shall maintain a list of programs that are approved to provide the training described in subsection 1 and shall cause the list to be placed on the Internet website maintained by the Department.~~

~~4. The Administrator is not required to comply with the provisions of chapter 233B of NRS to approve or provide for training programs pursuant to this section.~~

~~5. As used in this section:~~

- ~~—(a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.~~
- ~~—(b) "Group foster home" has the meaning ascribed to it in NRS 424.015.~~
- ~~—(c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.~~
- ~~—(d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.] (Deleted by amendment.)~~

Sec. 2. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a medical facility that has custody of ~~children~~ a child pursuant to the order of a court shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. Such a medical facility shall ensure that each employee of the medical facility who will administer medication to such ~~children~~ receives training at least annually in the administration and management of

~~medication through a program approved or provided by the Administrator of the Health Division pursuant to section 1 of this act.~~

~~—2. The medical facility shall not allow an employee to administer medication to a child in its custody pursuant to the order of a court unless the employee has successfully completed such training.~~

~~—3. The provisions of this section do not apply to an employee of:~~

~~—(a) A residential facility for groups who is required to complete the training and examination set forth in subsection 6 of NRS 449.037.~~

~~—(b) A medical facility who has a license or certificate issued pursuant to chapter 630, 632 or 633 of NRS.~~ **a child receives a copy of and understands the policy adopted pursuant to subsection 1.**

Sec. 3. NRS 449.070 is hereby amended to read as follows:

449.070 The provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act** do not apply to:

1. Any facility conducted by and for the adherents of any church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing in the practice of the religion of the church or denomination, except that such a facility shall comply with all regulations relative to sanitation and safety applicable to other facilities of a similar category.

2. Foster homes as defined in NRS 424.014.

3. Any medical facility or facility for the dependent operated and maintained by the United States Government or an agency thereof.

Sec. 4. NRS 449.160 is hereby amended to read as follows:

449.160 1. The Health Division may deny an application for a license or may suspend or revoke any license issued under the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 of this act** upon any of the following grounds:

(a) Violation by the applicant or the licensee of any of the provisions of NRS 439B.410 or 449.001 to 449.245, inclusive, **and section 2 of this act**, or of any other law of this State or of the standards, rules and regulations adopted thereunder.

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

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

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the facility.

(e) Failure of the applicant to obtain written approval from the Director of the Department of Health and Human Services as required by NRS 439A.100 or as provided in any regulation adopted pursuant to this chapter, if such approval is required.

(f) Failure to comply with the provisions of NRS 449.2486.

2. In addition to the provisions of subsection 1, the Health Division may revoke a license to operate a facility for the dependent if, with respect to that

facility, the licensee that operates the facility, or an agent or employee of the licensee:

- (a) Is convicted of violating any of the provisions of NRS 202.470;
- (b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or
- (c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Health Division shall maintain a log of any complaints that it receives relating to activities for which the Health Division may revoke the license to operate a facility for the dependent pursuant to subsection 2. The Health Division shall provide to a facility for the care of adults during the day:

- (a) A summary of a complaint against the facility if the investigation of the complaint by the Health Division either substantiates the complaint or is inconclusive;
- (b) A report of any investigation conducted with respect to the complaint; and
- (c) A report of any disciplinary action taken against the facility.

➤ The facility shall make the information available to the public pursuant to NRS 449.2486.

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

- (a) Any complaints included in the log maintained by the Health Division pursuant to subsection 3; and
- (b) Any disciplinary actions taken by the Health Division pursuant to subsection 2.

Sec. 5. NRS 449.163 is hereby amended to read as follows:

449.163 1. If a medical facility or facility for the dependent violates any provision related to its licensure, including any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, *and section 2 of this act*, or any condition, standard or regulation adopted by the Board, the Health Division, in accordance with the regulations adopted pursuant to NRS 449.165, may:

- (a) Prohibit the facility from admitting any patient until it determines that the facility has corrected the violation;
- (b) Limit the occupancy of the facility to the number of beds occupied when the violation occurred, until it determines that the facility has corrected the violation;
- (c) Impose an administrative penalty of not more than \$1,000 per day for each violation, together with interest thereon at a rate not to exceed 10 percent per annum; and
- (d) Appoint temporary management to oversee the operation of the facility and to ensure the health and safety of the patients of the facility, until:

(1) It determines that the facility has corrected the violation and has management which is capable of ensuring continued compliance with the applicable statutes, conditions, standards and regulations; or

(2) Improvements are made to correct the violation.

2. If a violation by a medical facility or facility for the dependent relates to the health or safety of a patient, an administrative penalty imposed pursuant to paragraph (c) of subsection 1 must be in a total amount of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation.

3. If the facility fails to pay any administrative penalty imposed pursuant to paragraph (c) of subsection 1, the Health Division may:

(a) Suspend the license of the facility until the administrative penalty is paid; and

(b) Collect court costs, reasonable attorney's fees and other costs incurred to collect the administrative penalty.

4. The Health Division may require any facility that violates any provision of NRS 439B.410 or 449.001 to 449.240, inclusive, **and section 2 of this act**, or any condition, standard or regulation adopted by the Board to make any improvements necessary to correct the violation.

5. Any money collected as administrative penalties pursuant to this section must be accounted for separately and used to protect the health or property of the residents of the facility in accordance with applicable federal standards.

Sec. 6. NRS 449.220 is hereby amended to read as follows:

449.220 1. The Health Division may bring an action in the name of the State to enjoin any person, state or local government unit or agency thereof from operating or maintaining any facility within the meaning of NRS 449.001 to 449.240, inclusive ~~[-],~~ **and section 2 of this act:**

(a) Without first obtaining a license therefor; or

(b) After his or her license has been revoked or suspended by the Health Division.

2. It is sufficient in such action to allege that the defendant did, on a certain date and in a certain place, operate and maintain such a facility without a license.

Sec. 7. NRS 449.240 is hereby amended to read as follows:

449.240 The district attorney of the county in which the facility is located shall, upon application by the Health Division, institute and conduct the prosecution of any action for violation of any provisions of NRS 449.001 to 449.245, inclusive ~~[-],~~ **and section 2 of this act.**

Sec. 8. ~~NRS 62B.250 is hereby amended to read as follows:~~

~~62B.250 1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall ensure that each employee who comes into direct contact with children who are in custody receives training within 30 days~~

~~after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~— (a) Controlling the behavior of children;~~
- ~~— (b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~— (c) The rights of children in the institution or agency;~~
- ~~— (d) Suicide awareness and prevention;~~
- ~~— (e) The administration of medication to children;~~
- ~~— (f) Applicable state and federal constitutional and statutory rights of children in the institution or agency;~~
- ~~— (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the institution or agency; and~~
- ~~— (h) Such other matters as required by the Division of Child and Family Services.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.~~

~~3. The Division of Child and Family Services shall adopt regulations necessary to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 8.5. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A public or private institution or agency to which a juvenile court commits a child, including, without limitation, a facility for the detention of children, shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. Such an institution or agency shall ensure that each employee of the institution or agency who will administer medication to a child at the institution or agency receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 9. [NRS 63.190 is hereby amended to read as follows:

~~—63.190 1. The superintendent of a facility shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~—(a) Controlling the behavior of children;~~
- ~~—(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~—(c) The rights of children in the facility;~~
- ~~—(d) Suicide awareness and prevention;~~
- ~~—(e) The administration of medication to children;~~
- ~~—(f) Applicable state and federal constitutional and statutory rights of children in the home;~~
- ~~—(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~—(h) Such other matters as required by the Administrator of the Division of Child and Family Services.~~

~~—2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. The superintendent of a facility shall not allow an employee to administer medication to a child in its custody unless the employee has successfully completed such training.~~

~~—3. The Administrator of the Division of Child and Family Services shall provide direction to the superintendent of each facility concerning the manner in which to carry out the provisions of this section. (Deleted by amendment.)~~

Sec. 9.5. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The superintendent of a facility shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. The superintendent shall ensure that each employee of the facility who will administer medication to a child at the facility receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 10. [NRS 424.0365 is hereby amended to read as follows:

~~—424.0365 1. A licensee that operates a specialized foster home or a group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after~~

~~employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~— (a) Controlling the behavior of children;~~
- ~~— (b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~— (c) The rights of children in the home;~~
- ~~— (d) Suicide awareness and prevention;~~
- ~~— (e) The administration of medication to children;~~
- ~~— (f) Applicable state and federal constitutional and statutory rights of children in the home;~~
- ~~— (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and~~
- ~~— (h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.~~

~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department of Health and Human Services pursuant to section 1 of this act. A licensee that operates a specialized foster home or a group foster home shall not allow an employee to administer medication to a child in such a home unless the employee has successfully completed such training.~~

~~3. The Division shall adopt regulations necessary to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 10.5. Chapter 424 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a specialized foster home or a group foster home shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. The licensee shall ensure that each employee of the specialized foster home or group foster home who will administer medication to a child at the specialized foster home or group foster home receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 10.7. NRS 424.090 is hereby amended to read as follows:

424.090 The provisions of NRS 424.020 to 424.090, inclusive, **and section 10.5 of this act,** do not apply to homes in which:

- 1. Care is provided only for a neighbor's or friend's child on an irregular or occasional basis for a brief period, not to exceed 90 days.
- 2. Care is provided by the legal guardian.

3. Care is provided for an exchange student.
4. Care is provided to enable a child to take advantage of educational facilities that are not available in his or her home community.
5. Any child or children are received, cared for and maintained pending completion of proceedings for adoption of such child or children, except as otherwise provided in regulations adopted by the Division.
6. Except as otherwise provided in regulations adopted by the Division, care is voluntarily provided to a minor child who is:
 - (a) Related to the caregiver by blood, adoption or marriage; and
 - (b) Not in the custody of an agency which provides child welfare services.
7. Care is provided to a minor child who is in the custody of an agency which provides child welfare services pursuant to chapter 432B of NRS if:
 - (a) The caregiver is related to the child within the fifth degree of consanguinity; and
 - (b) The caregiver is not licensed pursuant to the provisions of NRS 424.020 to 424.090, inclusive ~~11~~, and section 10.5 of this act.

Sec. 11. ~~NRS 432A.177 is hereby amended to read as follows:~~
~~432A.177 1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall ensure that each employee who comes into direct contact with children in the facility receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~
~~— (a) Controlling the behavior of children;~~
~~— (b) Policies and procedures concerning the use of force and restraint on children;~~
~~— (c) The rights of children in the facility;~~
~~— (d) Suicide awareness and prevention;~~
~~— (e) The administration of medication to children;~~
~~— (f) Applicable state and federal constitutional and statutory rights of children in the facility;~~
~~— (g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
~~— (h) Such other matters as required by the Board.~~
~~2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall not allow an employee to administer medication to a child in the child care facility unless the employee has successfully completed such training.~~

~~—3. The Board shall adopt regulations necessary to carry out the provisions of this section.† (Deleted by amendment.)~~

Sec. 11.5. Chapter 432A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee that operates a child care facility which occasionally or regularly has physical custody of children pursuant to the order of a court, including, without limitation, an emergency shelter, shall adopt a policy concerning the manner in which to:

- (a) Document the orders of the treating physician of a child;**
- (b) Administer medication to a child;**
- (c) Store, handle and dispose of medication;**
- (d) Document the administration of medication and any errors in the administration of medication;**
- (e) Minimize errors in the administration of medication; and**
- (f) Address errors in the administration of medication.**

2. The licensee shall ensure that each employee of the child care facility who will administer medication to a child at the child care facility receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 11.7. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, **and section 11.5 of this act** is guilty of a misdemeanor.

Sec. 12. †NRS 433B.175 is hereby amended to read as follows:

~~—433B.175 1. The Administrator shall ensure that each employee who comes into direct contact with children at any treatment facility and any other division facility into which a child may be committed by a court order receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:~~

- ~~—(a) Controlling the behavior of children;~~
- ~~—(b) Policies and procedures concerning the use of force and restraint on children;~~
- ~~—(c) The rights of children in the facility;~~
- ~~—(d) Suicide awareness and prevention;~~
- ~~—(e) The administration of medication to children;~~
- ~~—(f) Applicable state and federal constitutional and statutory rights of children in the facility;~~
- ~~—(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the facility; and~~
- ~~—(h) Such other matters as required by the Board.~~

~~—2. The training received pursuant to paragraph (e) of subsection 1 by an employee who will administer medication to a child must be obtained through a training program approved or provided by the Administrator of the Health Division of the Department pursuant to section 1 of this act. The Administrator of the Division of Child and Family Services shall not allow~~

~~an employee to administer medication to a child at any treatment facility and any other division facility into which a child may be committed by a court order unless the employee has successfully completed such training.~~

~~3. The Division shall adopt regulations necessary to carry out the provisions of this section.~~ **(Deleted by amendment.)**

Sec. 12.5. Chapter 433B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall adopt a policy for each treatment facility and any other division facility into which a child may be committed by a court order concerning the manner in which to:

(a) Document the orders of the treating physician of a child;

(b) Administer medication to a child;

(c) Store, handle and dispose of medication;

(d) Document the administration of medication and any errors in the administration of medication;

(e) Minimize errors in the administration of medication; and

(f) Address errors in the administration of medication.

2. The Administrator shall ensure that each employee who comes into direct contact with a child at any treatment facility and any other division facility into which a child may be committed by a court order and who will administer medication to a child receives a copy of and understands the policy adopted pursuant to subsection 1.

Sec. 13. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than \$10,000 for each violation on, recover reasonable investigative fees and costs incurred from, suspend, revoke, deny the issuance or renewal of or place conditions on the license of, and place on probation or impose any combination of the foregoing on any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his or her license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, **and section 2 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. 14. ¹1. An employee of a governmental facility for children, a group foster home, a private facility for children or a specialized foster home that has custody of a child pursuant to the order of a court who has not successfully completed training in the administration and management of medication through a program that has been approved by the Administrator of the Health Division of the Department of Health and Human Services as required pursuant to sections 2 and 8 to 12, inclusive, of this act, as applicable, on January 1, 2012, may continue to administer medication to a child in the custody of the facility or home if the person is authorized to do so on January 1, 2012, but must complete such training on or before March 31, 2012.~~

~~— 2. As used in this section:~~

~~— (a) "Governmental facility for children" has the meaning ascribed to it in NRS 218G.520.~~

~~— (b) "Group foster home" has the meaning ascribed to it in NRS 424.015.~~

~~— (c) "Private facility for children" has the meaning ascribed to it in NRS 218G.535.~~

~~— (d) "Specialized foster home" has the meaning ascribed to it in NRS 424.018.~~ **(Deleted by amendment.)**

Sec. 15. This act becomes effective ~~upon passage and approval for the purpose of taking such actions as are necessary to ensure that adequate training programs concerning the administration and management of medication are available in this State and for 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 Copenig moved that the Senate concur in the Assembly amendment to Senate Bill No. 246.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 300.

The following Assembly amendment was read:

Amendment No. 712.

"SUMMARY—Revises provisions governing certain billing and related practices of hospitals. (BDR 40-797)"

"AN ACT relating to medical facilities; revising provisions governing billing and related practices of certain larger hospitals; revising requirements relating to notices of billing practices which must be provided to patients of certain hospitals; providing administrative penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires major hospitals with 200 or more beds to reduce by at least 30 percent the total billed charges for hospital services provided to inpatients who: (1) do not have insurance; (2) are not eligible for a government program which provides medical assistance; and (3) make arrangements to pay the hospital bill. (NRS 439B.260) **Section 2** of this bill specifies that the reduction in total billed charges applies only to inpatients who do not have health insurance and specifically excludes policies of insurance such as casualty and property insurance for purposes of determining whether an inpatient has insurance. Existing law requires major hospitals to give patients, upon discharge, notice of the provisions concerning the reduction of billed charges. (NRS 449.730) **Section 2** additionally requires major hospitals to include such a notice on or with the first statement of the hospital bill provided to each patient. Existing law prescribes civil and administrative penalties which are applicable to a violation of the provisions of **section 2**. (NRS 439B.500)

Section 3 of this bill prohibits a hospital from collecting any amount owed to the hospital for hospital care from the proceeds or potential proceeds of a civil action or from an insurer other than a health insurer if the patient was covered by health insurance ~~+~~ and the hospital has a contractual agreement with the insurer of the patient.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 439B.260 is hereby amended to read as follows:

439B.260 1. A major hospital shall reduce or discount the total billed charge by at least 30 percent for hospital services provided to an inpatient who:

(a) Has no ***policy of health*** insurance or other contractual ~~provision for the payment of the charge by~~ ***agreement with*** a third party ~~that provides health coverage for the charge;~~

(b) Is not eligible for coverage by a state or federal program of public assistance that would provide for the payment of the charge; and

(c) Makes reasonable arrangements within 30 days after ~~discharge~~ ***the date that notice was sent pursuant to subsection 2*** to pay the hospital bill.

2. ***A major hospital shall include on or with the first statement of the hospital bill provided to the patient after his or her discharge a notice of the reduction or discount available pursuant to this section, including, without limitation, notice of the criteria a patient must satisfy to qualify for a reduction or discount.***

3. A major hospital or patient who disputes the reasonableness of arrangements made pursuant to paragraph (c) of subsection 1 may submit the dispute to the Bureau for Hospital Patients for resolution as provided in NRS 223.575.

~~3.~~ 4. A major hospital shall reduce or discount the total billed charge of its outpatient pharmacy by at least 30 percent to a patient who is eligible for Medicare.

5. ***As used in this section, "third party" means:***

(a) ***An insurer, as that term is defined in NRS 679B.540;***

(b) ***A health benefit plan, as that term is defined in NRS 689A.540, for employees which provides coverage for services and care at a hospital;***

(c) ***A participating public agency, as that term is defined in NRS 287.04052, and any other local governmental agency of the State of Nevada which provides a system of health insurance for the benefit of its officers and employees, and the dependents of officers and employees, pursuant to chapter 287 of NRS; or***

(d) ***Any other insurer or organization providing health coverage or benefits in accordance with state or federal law.***

↪ ***The term does not include an insurer that provides coverage under a policy of casualty or property insurance.***

Sec. 3. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ***Except as otherwise provided in subsection 2, if a hospital provides hospital care to a person who has a policy of health insurance issued by a third party that provides health coverage for care provided at that hospital and the hospital has a contractual agreement with the third party, the hospital shall proceed with any efforts to collect on any amount owed to the hospital for the hospital care in accordance with the provisions of NRS 449.757 and shall not collect or attempt to collect that amount from:***

(a) ***Any proceeds or potential proceeds of a civil action brought by or on behalf of the patient, including, without limitation, any amount awarded for medical expenses; or***

(b) An insurer other than a health insurer, including, without limitation, an insurer that provides coverage under a policy of casualty or property insurance.

2. This section does not apply to:

(a) Amounts owed to the hospital under the policy of health insurance that are not collectible; or

(b) Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill.

3. This section does not limit any rights of a patient to contest an attempt to collect an amount owed to a hospital, including, without limitation, contesting a lien obtained by a hospital.

4. As used in this section, "third party" has the meaning ascribed to it in NRS 439B.260.

Sec. 4. NRS 449.751 is hereby amended to read as follows:

449.751 As used in NRS 449.751 to 449.759, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 449.753 and 449.755 have the meanings ascribed to them in those sections.

Sec. 5. NRS 449.757 is hereby amended to read as follows:

449.757 1. When a person receives hospital care, the hospital must not proceed with any efforts to collect on any amount owed to the hospital for the hospital care from the responsible party, other than for any copayment or deductible, if the responsible party has health insurance or may be eligible for Medicaid, the Children's Health Insurance Program or any other public program which may pay all or part of the bill, until the hospital has submitted a bill to the *health* insurance company or public program and the *health* insurance company or public program has made a determination concerning payment of the claim.

2. Collection efforts may begin and interest may begin to accrue on any amount owed to the hospital for hospital care which remains unpaid by the responsible party not sooner than 30 days after the responsible party is sent a bill by mail stating the amount that he or she is responsible to pay which has been established after receiving a determination concerning payment of the claim by any insurer or public program and after applying any discounts. Interest must accrue at a rate which does not exceed the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date on which the payment becomes due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the payment is satisfied.

3. Except for the interest authorized pursuant to subsection 2 and any court costs and attorney's fees awarded by a court, no other fees may be charged concerning the amount that remains unpaid, including, without limitation, collection fees, other attorney's fees or any other fees or costs.

Senator Copenig moved that the Senate concur in the Assembly amendment to Senate Bill No. 300.

Motion carried on a division of the house.

Bill ordered enrolled.

RECEDE FROM SENATE AMENDMENTS

Senator Schneider moved that the Senate do not recede from its action on Assembly Bill No. 20, 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 Schneider, Breeden and Roberson as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 20.

RECEDE FROM SENATE AMENDMENTS

Senator Denis moved that the Senate do not recede from its action on Assembly Bill No. 39, 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 Wiener, Kihuen and Cegavske as a Conference Committee to meet with a like committee of the Assembly for the further consideration Assembly Bill No. 39.

RECEDE FROM SENATE AMENDMENTS

Senator Denis moved that the Senate do not recede from its action on Assembly Bill No. 40, 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, Wiener and Gustavson as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 40.

RECEDE FROM SENATE AMENDMENTS

Senator Denis moved that the Senate do not recede from its action on Assembly Bill No. 498, 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 Denis, Leslie and Cegavske as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 498.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Breeden, Copening and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 193.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 37, 97, 152, 182, 190, 201, 226, 234, 237, 273, 277, 317, 358, 420, 444, 450, 481; Senate Concurrent Resolution No. 13; Assembly Bills Nos. 98, 132, 160, 456.

REMARKS FROM THE FLOOR

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

Louis J. Capurro, Jr. 92, the grandson of Italian immigrants Pasquale Capurro and Luigia Battaglia Capurro; Pietro Bartolino and Teresa Procarione Bartolino, died Saturday evening peacefully at the home ranch where he had lived all of his life. He was born June 27, 1918 to Louis J. Capurro, Sr. and Isabella Bartolino Capurro.

He attended the original Huffaker Elementary School, many days riding his horse; attended B.D. Billingshurst Middle School from 1929-1932; Reno High School from 1932-1935 and received his BA in business from the University of Nevada in 1939, the year he started his first insurance business.

In 1940, he married Genevieve Dondero. They enjoyed 55 years together until her death in 1995.

Louis was very active in the business community and held various public service assignments throughout his life. He was elected President of the 20-30 Club in 1942; he served a decade in the Assembly of the Nevada State Legislature, first elected in 1943 when he was 25 years old and sent back by the voters for four additional sessions where later, his son Randy, also served in the lower house. In 1949, county boards of adjustments were created by the State lawmakers as non-salaried volunteer positions. In July 1949, Louis became a charter member of the Washoe County Board of Adjustment, appointed by the Washoe County Commission. He was chairman of this board several times, once for a 10-year period. He served a numbing 37 years, retiring from that position in 1986 after attending approximately 500 monthly meetings and special sessions. He always knew what was happening in the Reno-Sparks area.

Also an avid hunter, Louis was a Triple Champion in various shooting competitions in 1949, including the Nevada State Championship; the Reno Great Pacific Open 410 ga. Class C and the All Bore 5-Man Team Class B. His very active membership in the Honey Lake Ranch gave him many years of great duck, goose and pheasant hunting.

From 1949-1964 his insurance company became the Capurro-McKenna Insurance Company, and from 1964-1986, with his son Randy and Richard Voss, it was known as Capurro-Voss Insurance Company. Then, in 1986, the business was sold to and he continued to work for Fred S. James (Sedgewick James) Insurance Company.

He was associated with the Nevada Star Grange Organization in earlier years. He was a member of the Prospector's Club in Reno and enjoyed many pleasant occasions there. His association with the beloved ROMEO'S (Retired Old Men Eating Out), since 1984, was the highlight of his week, sharing the kind of perspective that shows the value of enduring

friendship. No group of men could ever show more humor, stories, frank observations of life and genuine love for each other.

Louis' vision was made real in 1964-1965 with the organizing and opening of Pioneer Citizen's Bank of Nevada. He and four other descendants of pioneer Nevada families; Paul Laiolo, Royal Stewart, Harold Cafferata and Ben Caramella were at the helm. Louis served as the first Chairman of the Board. In 1999, Pioneer Citizens Bank was sold to Zions Bank and is locally known as Nevada State Bank of Nevada.

Louis was also very active in the Reno Benevolent and Protective Order of Elks (BPOE). He served as the Exalted Ruler in 1965-1966. In 1967, he was the District Deputy Exalted Ruler for the Northern Nevada District of BPOE. In 1977-1978, he was elected the Nevada State Elks Association's President. In 1984-1985, he was the Grand Lodge Committee Designate. He also held the title of Past Grand Loyal Knight.

In 1998, he received the Distinguished Nevadan Degree from the University of Nevada.

Through all of this, Louis never lost sight of his family. All of us knew we were the most important part of his life and he was sought after for his knowledge, wisdom and love by each of us, including his loving companion, Florence Rose.

Preceding Louis in death besides his wife, Genevieve, were grandchild, Lorin Louis Capurro and great grandchild Lisa Jean Capurro. Surviving are his three children: Allen Capurro (Carol), Randall Capurro (Annette) and Corinne Capurro Guio (Bill). Eight Grandchildren: Steven Allen Capurro; Clinton Dale Capurro (Michelle); Suzanne Marie Capurro Murphy (Brian); Gina Louise Capurro Gardner (Ken); Anthony Randall Capurro (Julie); Christopher Capurro (Chrissy); Heather Lynn Guio Parks (Steve) and Thomas Victor Guio. Thirteen great grandchildren including: Renee, Ashley, Kylee, Conner, Electra and Angele Capurro; Morgan, Madison and Chandler Murphy; Lucas, Addison and Mallory Gardner; and Mia Parks.

Services were scheduled on Thursday, Feb. 3 at 5:00 p.m. Viewing at Walton's 2nd St. Chapel followed by 7:00 p.m. Rosary on Friday, Feb 4 at 10:00 a.m., funeral Mass was at St. Theresa's Little Flower Catholic Church.

In lieu of flowers, gifts may be made in Louie's memory to the University of Nevada Reno Foundation/Capurro Family Endowment, sent to University of Nevada, Reno Foundation, Mail Stop 0162, Reno, NV 89507.

Senator Horsford moved that the Senate adjourn until Monday, May 30, 2011, at 11 a.m. and that it do so in memory of Louis J. Capurro.

Motion carried.

Senate adjourned at 9:22 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN

Secretary of the Senate

THE ONE HUNDRED AND THIRTEENTH DAY

CARSON CITY (Monday), May 30, 2011

Senate called to order at 11:21 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer and performance by Michael Gott.

There is one infinite Power and Presence—God.

It is in God that we live, move and have our being.

God, we come before You today and we call upon Your wisdom, grace and love to guide these, our elected leaders in this Session.

As these committed men and women work towards a better future for ourselves and for our children, remind us God that we are all in this together.

One people. Let us work today with one purpose.

Thank You, God.

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 Legislative Operations and Elections, to which were referred Assembly Bills Nos. 452, 473, 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 Transportation, to which was referred Assembly Bill No. 351, 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*

MOTIONS, RESOLUTIONS AND NOTICES

By the Committee on Legislative Operations and Elections:

Senate Resolution No. 5—Designating certain members of the Senate as regular and alternate members of the Legislative Commission for the 2011-2013 biennium.

Senator Wiener moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senator Wiener moved that all necessary rules be suspended, and that all bills and joint resolutions just reported out of committee be immediately placed on the appropriate reading files, time permitting, this legislative day.

Remarks by Senator McGinness.

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

Thank you, Mr. President. I understand the necessity for doing this, but what does "necessary rules" mean?

A conference was held at the Secretary's Desk and the question was answered.

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 11:29 a.m.

SENATE IN SESSION

At 12:27 p.m.

President Krolicki presiding.

Quorum present.

SECOND READING AND AMENDMENT

Assembly Bill No. 202.

Bill read second time and ordered to third reading.

Assembly Bill No. 351.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 737.

"SUMMARY—Revises provisions governing certain motor carriers. (BDR 58-1049)"

"AN ACT relating to motor carriers; authorizing operators of taxicabs and operators of limousines to accept credit cards and debit cards for payment of rates, fares and charges; authorizing the prescribing of maximum fees that may be charged to customers of taxicabs and limousines for the convenience of payment by a credit card or debit card; prohibiting issuers of credit cards and debit cards and certain other persons from prohibiting the collection of the convenience fees; **requiring the Taxicab Authority to compile a report for the Legislature concerning the costs of purchasing, installing and maintaining equipment to accept such payments; requiring a portion of the fee paid in certain counties to be used for certain transportation services;** providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Nevada Transportation Authority regulates common motor carriers of passengers, which include limousines and, in counties with a population of less than 400,000 (currently all counties other than Clark County), taxicabs. (NRS 706.166) The Taxicab Authority regulates taxicabs in counties with a population of 400,000 or more (currently Clark County). (NRS 706.8818)

Sections 2 and 3 of this bill authorize taxicab and limousine operators to accept payment by a credit card or debit card. **Section 2** authorizes the Nevada Transportation Authority to prescribe by regulation ~~for order~~ the maximum fees that a taxicab motor carrier or limousine operator within its jurisdiction may charge for the convenience of paying by using a credit card or debit card. **Section 3** authorizes the Taxicab Authority to prescribe by regulation ~~for order~~ the maximum fees that a certificate holder in a county whose population is 400,000 or more may charge for the convenience of paying by using a credit card or debit card. **Sections 2 and 3** also **set forth the manner in which the amount of the fee that may be charged will be determined and** prohibit an issuer of a credit card or debit card or certain other persons who facilitate the acceptance of a credit card or debit card from prohibiting the collection by a taxicab or limousine operator of the convenience fee.

Section 11 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) to transmit a report to the Taxicab Authority on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to accept credit cards or debit cards. Section 11 requires the Taxicab Authority to compile the information contained in the reports within 30 days of receipt and transmit the information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Section 12 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) that charges a fee to customers for using a credit card or debit card to transmit a portion of the fee so collected to the Taxicab Authority on or before January 1, 2012, July 1, 2012, and January 1, 2103. The Taxicab Authority is required to determine the amount to be transmitted on a fair and equitable basis to ensure that the Taxicab Authority is able to transmit \$400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services for expenditure on transportation services in Clark County.

Section 13 of this bill requires the adoption of any regulations by the Taxicab Authority and the Nevada Transportation Authority necessary to implement the bill by October 1, 2011.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. A taxicab motor carrier or an operator of a limousine may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the taxicab

motor carrier or the operator of a limousine for the payment of rates, fares and charges owed to the taxicab motor carrier or the operator of a limousine.

2. The Authority may prescribe by regulation ~~for order~~ the maximum fee that a taxicab motor carrier or an operator of a limousine may charge a customer for the convenience of using a credit card or debit card to make payment to the taxicab motor carrier or the operator of a limousine. ~~It may prescribe such fees, the~~ The Authority ~~may consider the expenses incurred by~~ shall establish the fee in an amount that allows the taxicab motor carrier or the operator of a limousine to recover the costs incurred in accepting payment by a credit card or debit card . ~~It~~ Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee, including, without limitation:

(a) Costs of required equipment and its installation;
(b) Administrative costs of processing credit card or debit card transactions; and

(c) Fees paid to issuers of credit cards or debit cards.

3. An issuer shall not, by contract or otherwise:

(a) Prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2; or

(b) Require a taxicab motor carrier or an operator of a limousine to waive the right to charge and collect a fee authorized pursuant to subsection 2.

4. As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:

(a) Issues a credit card or debit card; or

(b) Enters into a contract with a taxicab motor carrier, an operator of a limousine or other person to enable or facilitate the acceptance of a credit card or debit card.

Sec. 3. 1. A certificate holder may enter into a contract with an issuer of credit cards and debit cards to provide for the acceptance of credit cards or debit cards by the certificate holder for the payment of rates, fares and charges owed to the certificate holder.

2. The Taxicab Authority may prescribe by regulation ~~for order~~ the maximum fee that a certificate holder may charge a customer for the convenience of using a credit card or debit card to make payment to the certificate holder. ~~It may prescribe such fees, the~~ The Taxicab Authority ~~may consider the expenses incurred by~~ shall establish the fee in an amount that allows the certificate holder to recover the costs incurred in accepting payment by a credit card or debit card . ~~It~~ Only the costs associated with accepting payment by a credit card or debit card may be included in establishing the amount of the fee, including, without limitation:

(a) *Costs of required equipment and its installation;*
 (b) *Administrative costs of processing credit card or debit card transactions; and*

(c) *Fees paid to issuers of credit cards or debit cards.*

3. *An issuer shall not, by contract or otherwise:*

(a) *Prohibit a certificate holder from charging and collecting a fee authorized pursuant to subsection 2; or*

(b) *Require a certificate holder to waive the right to charge and collect a fee authorized pursuant to subsection 2.*

4. *As used in this section, "issuer" means a business organization, financial institution or a duly authorized agency of a business organization or financial institution which:*

(a) *Issues a credit card or debit card; or*

(b) *Enters into a contract with a certificate holder or other person to enable or facilitate the acceptance of a credit card or debit card.*

Sec. 4. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and section 2 of this act***, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and section 2 of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~§~~, ***and section 2 of this act***;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~§~~, ***and section 2 of this act***;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~§~~, ***and section 2 of this act***;

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

↳ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

↳ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, **and section 3 of this act**, apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, **and section 3 of this act**, within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 7. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, **and section 3 of this act**, unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, **and section 3 of this act** is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of \$15,000 or penalize the grantee of a driver's permit to a maximum amount of \$500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:

(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, **and section 3 of this act** or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, **and section 3 of this act** or any regulation of the Taxicab Authority or Administrator.

➤ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. Except as otherwise provided by subsection 2, on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, each taxicab motor carrier in a county whose population is 700,000 or more shall transmit a report to the Taxicab Authority which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.

2. The first report transmitted pursuant to this section must include the information for all months preceding January 1, 2012, in which any expenses were incurred to purchase, install and maintain the equipment used to provide for the acceptance of credit cards or debit cards for the payment of rates, fares and other charges.

3. Within 30 days after receipt of the reports made pursuant to this section, the Taxicab Authority shall compile the information contained in the reports and transmit that information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Sec. 12. The Taxicab Authority shall require all taxicab motor carriers in a county whose population is 700,000 or more who charge a customer a fee for the convenience of using a credit card or debit card for rates, fares or other charges to transmit a portion of those fees to the Authority on or before January 1, 2012, July 1, 2012, and January 1, 2013. The Taxicab Authority shall determine the amount of the fees required to be transmitted on a fair and equitable basis which

ensures that the amount necessary is collected from each entity to enable the Taxicab Authority to transmit \$400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services. The entire amount of the \$1,200,000 transmitted to the Division must be expended on transportation services in Clark County provided through the Senior Ride Program and the Independent Living Grants Program.

Sec. 13. The Taxicab Authority and the Nevada Transportation Authority shall each adopt any regulations necessary to implement the provisions of this act on or before October 1, 2011.

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

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. 737 to Assembly Bill No. 351 requires the Taxicab Authority to compile a report for the Legislature concerning the costs incurred by a taxicab or limousine operator in purchasing, installing, and maintaining equipment to accept credit and debit card payments. It specifies that in determining the amount a taxicab or limousine operator may charge for using a credit or debit card, the Taxicab Authority may only take into consideration the costs associated with acceptance.

The amendment also requires that a portion of the fee charged by a taxicab or limousine operator for the acceptance of a credit or debit card be transmitted to the Taxicab Authority for purposes of supporting the Senior Ride and Independent Living Grants Programs.

Amendment adopted.

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

Assembly Bill No. 452.

Bill read second time.

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

Amendment No. 834.

"SUMMARY—Revises provisions relating to governmental administration. (BDR 24-1136)"

"AN ACT relating to governmental administration; requiring the electronic filing of certain campaign contribution and expenditure reports and statements of financial disclosure; amending the deadlines for filing certain campaign contribution and expenditure reports; requiring candidates to report certain contributions and expenditures in the aggregate on campaign contribution and expenditure reports; requiring candidates to report the disposal of certain unspent campaign contributions in the aggregate on campaign contribution and expenditure reports; ~~prohibiting certain former public officers from receiving compensation or other consideration to lobby for 2 years after leaving office; increasing the "cooling-off" period for former members of the Public Utilities Commission of Nevada, the State Gaming Control Board and the Nevada Gaming Commission to lobby on behalf of~~

~~certain regulated businesses and industries;~~ making various other changes relating to campaign finance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 2-20 of this bill provide that, except under certain circumstances, campaign contribution and expenditure reports related to candidates for state, county, city and district offices must be filed electronically with the Secretary of State. **Sections 4, 7-11 and 16** also revise the deadlines for filing such reports.

Existing law requires a candidate to report on his or her campaign contribution and expenditure report: (1) each campaign contribution in excess of \$100 received during the reporting period and contributions received during the period from a contributor which cumulatively exceed \$100; (2) each campaign expense incurred, or expenditure made, in excess of \$100 during the reporting period; and (3) any unspent campaign contribution that is disposed of during the reporting period in excess of \$100. (NRS 294A.120, 294A.125, 294A.200) **Sections 4, 5 and 9** of this bill require candidates to report, in the aggregate, contributions, expenses, expenditures or amounts of unspent campaign contributions disposed of which are less than \$100.

Existing law requires a candidate, person, committee, political party, group of persons or business entity to sign all campaign contribution and expenditure reports under penalty of perjury. (NRS 294A.120, 249A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.286) Sections 2-15, 18 and 23 of this bill authorize a person signing such a report the alternative option of signing under an oath to God but provides that a person who signs a report under an oath to God is subject to the same penalties as if he or she signed the report under penalty of perjury.

Section 18 of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report rather than requiring the design of a single form for all campaign contribution and expenditure reports in order to accommodate the new electronic filing requirements.

Sections 23-26 and 28-33 of this bill provide that, except under certain circumstances, appointed and elected public officers must file statements of financial disclosure electronically with the Secretary of State rather than the Commission on Ethics.

~~Under existing law, former members of the Public Utilities Commission of Nevada, the State Gaming Control Board and the Nevada Gaming Commission must observe a 1-year "cooling-off" period prior to appearing before the Public Utilities Commission of Nevada, the State Gaming Control Board or the Nevada Gaming Commission, as applicable, on behalf of certain regulated businesses or industries. (NRS 281A.550) Section 27 of this bill increases this "cooling-off" period to 2 years. Section 22 of this bill prohibits former public officers from receiving compensation or other consideration to~~

~~lobby any member of the governing body of the State or a political subdivision, as applicable, to which the former public officer was elected or appointed for 2 years after leaving office.~~

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3, of this act.

Sec. 2. 1. *A candidate who is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the candidate:*

(a) Did not receive or expend money in excess of \$10,000 after becoming a candidate pursuant to NRS 294A.005; and

(b) Has on file with the Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(1) The candidate does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The candidate does not have the financial ability to purchase or obtain access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. *The affidavit described in subsection 1 must be:*

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A candidate who signs the affidavit under an oath to God is subject to the same penalties as if the candidate had signed the affidavit under penalty of perjury.

(b) Filed not later than 15 days before the candidate is required to file a report described in subsection 1 of NRS 294A.373.

3. *A candidate who is not required to file the report electronically may file the report by transmitting the report by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date on which it is received by the Secretary of State.*

Sec. 3. 1. *A person, committee, political party, group of persons or business entity that is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the person, committee, political party, group or business entity:*

(a) Did not receive or expend money in excess of \$10,000 in the previous calendar year; and

(b) Has on file with the Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(1) The person, committee, political party, group or business entity does not own or have the ability to access the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The person, committee, political party, group or business entity does not have the financial ability to purchase or obtain access to the

technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. The affidavit described in subsection 1 must be:

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A person who signs the affidavit under an oath to God is subject to the same penalties as if the person had signed the affidavit under penalty of perjury.

(b) Filed:

(1) At least 15 days before any report described in subsection 1 of NRS 294A.373 is required to be filed by the person, committee, political party, group or business entity.

(2) Not earlier than January 1 and not later than January 15 of each year, regardless of whether or not the person, committee, political party, group or business entity was required to file any report described in subsection 1 of NRS 294A.373 in the previous year.

3. A person, committee, political party, group of persons or business entity that has properly filed the affidavit pursuant to this section may file the relevant report with the Secretary of State by transmitting the report by regular mail, certified mail, facsimile machine or personal delivery. A report transmitted pursuant to this subsection shall be deemed to be filed on the date on which it is received by the Secretary of State.

Sec. 4. NRS 294A.120 is hereby amended to read as follows:

294A.120 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~~ :

(a) ~~Each~~ campaign contribution in excess of \$100 received during the period ~~and contributions~~ ;

(b) ~~Contributions~~ received during the period from a contributor which cumulatively exceed \$100 ~~+~~ ; and

(c) ~~The total of all contributions received during the period which are \$100 or less and which are not otherwise required to be reported pursuant to paragraph (b).~~

↪ The provisions of this subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

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~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~12~~ 25 days before the primary election;*

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the primary election through ~~{12}~~ **5** days before the ~~{general election}; and~~

~~—(c) July 15 of the year of~~ **primary election;**

(c) **Twenty-one days before** the general election for that office, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** election through ~~{June 30 of that year;}~~ **25 days before the general election; and**

(d) **Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,**

↗ report each campaign contribution ~~{in excess of \$100}~~ **described in subsection 1** received during the period . ~~{and contributions received during the period from a contributor which cumulatively exceed \$100.}~~ The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under **an oath to God or** penalty of perjury. **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form 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}~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ **25** days before the primary election; ~~{and}~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the primary election through ~~{12}~~ **5** days before the ~~{general election;}~~ **primary election;**

(c) **Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and**

(d) **Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,**

↗ report each campaign contribution ~~{in excess of \$100}~~ **described in subsection 1** received during the period . ~~{and contributions received during the period from a contributor which cumulatively exceed \$100.}~~ The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under **an oath to God or** penalty of perjury. **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form 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 campaign contribution ~~{in excess of \$100}~~ *described in subsection 1* received during the period . ~~{and contributions received during the reporting period from a contributor which cumulatively exceed \$100.}~~ The report must be completed on the form designed and ~~{provided}~~ *made available* by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under *an oath to God or* penalty of perjury. *A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form 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 list each of the campaign contributions received on the form designed and ~~{provided}~~ *made available* by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under *an oath to God or* 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) 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.

→ *A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.*

6. ~~{Reports}~~ *Except as otherwise provided in section 2 of this act, reports* of campaign contributions must be filed *electronically* 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.}~~ *Secretary of State.*

7. 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} *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. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the} Secretary of State . ~~{within 10 working days after receiving the report.}~~

8. 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 \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 5. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives contributions in any year before the year in which the general election or general city election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which the candidate receives contributions in excess of \$10,000, list ~~each~~ :

(1) *Each* of the contributions received and the expenditures in excess of \$100 made in that year ~~+~~ ; *and*

(2) *The total of all contributions received and expenditures which are \$100 or less.*

(b) Each year after the year in which the candidate received contributions in excess of \$10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, list ~~each~~ :

(1) *Each* of the contributions received and the expenditures in excess of \$100 made in that year ~~+~~ ; *and*

(2) *The total of all contributions received and expenditures which are \$100 or less.*

2. The reports required by subsection 1 must be submitted on the form designed and ~~provided~~ *made available* by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under *an oath to God or* penalty of perjury. *A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form 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 list for each contribution in excess of \$100 and contributions that a contributor has made cumulatively in excess of that amount.

4. ~~[The]~~ *Except as otherwise provided in section 2 of this act, the* report must be filed ~~+~~

~~—(a) With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means.]~~
electronically with the Secretary of State.

5. A report shall be deemed to be filed ~~with the officer:~~

~~—(1) On the date it was mailed if it was sent by certified mail.~~

~~—(2) On] on~~ the date it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—(b) On or before January 15 of the year immediately after the year for which the report is made.~~

~~—5. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions and expenditures pursuant to subsection 4 shall file a copy of the report with the Secretary of State . [within 10 working days after receiving the report.]~~

Sec. 6. NRS 294A.128 is hereby amended to read as follows:

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and ~~[provided]~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under ***an oath to God or*** penalty of perjury. ***A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.***

3. ~~[The]~~ ***Except as otherwise provided in section 2 of this act, the*** reports required by 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. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after receiving the report.]~~

Sec. 7. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that 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, and every committee for political action,

political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~{Seven}~~ ***Twenty-one*** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~{12}~~ ***25*** days before the primary election or primary city election;

(b) ~~{Seven}~~ ***Four*** days before the ~~{general}~~ ***primary*** election or ~~{general}~~ ***primary*** city election for that office, for the period from ~~{11}~~ ***24*** days before the primary election or primary city election through ~~{12}~~ ***5*** days before the ~~{general}~~ ***primary*** election or ~~{general}~~ ***primary*** city election; ~~{and~~

~~—(c) July 15 of the year of}~~

(c) ***Twenty-one days before*** the general election or general city election for that office, for the period from ~~{11}~~ ***4*** days before the ~~{general}~~ ***primary*** election or ~~{general}~~ ***primary*** city election through ~~{June 30 of that year,}~~ ***25 days before the general election or general city election; and***

(d) ***Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,***

➤ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~{provided}~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is***

subject to the same penalties as if the person had signed the form 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 \$100 and contributions which a contributor has made cumulatively in excess of \$100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~{Seven}~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~{12}~~ **25** days before the primary election or primary city election; ~~{and}~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ **24** days before the primary election or primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election ~~{;}~~ ;

(c) **Twenty-one days before the general election or general city election for that office, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

→ report each campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God** or penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the

period from the nomination of the candidate 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 \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. The report must be completed on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under ***an oath to God or*** 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.

→ ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

7. ~~{The}~~ ***Except as otherwise provided in section 3 of this act,*** the reports of contributions required pursuant to this section must be filed ***electronically with*** ~~;~~

~~—(a) If the candidate is elected from one county, the county clerk of that county;~~

~~—(b) If the candidate is elected from one city, the city clerk of that city; or~~

~~—(c) If the candidate is elected from more than one county or city,} the Secretary of State.~~

8. ~~[A person or entity may file the report with 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~~ *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. 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.~~

~~—10.} *Secretary of State.*~~

9. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.

Sec. 8. 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 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, 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 received during that period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~{provided}~~ ***made available*** 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 under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*** The provisions of this subsection apply to the person, group of persons or business entity:

(a) Each year in which:

(1) An election or city election is held for each question for which the person, group of persons or business entity 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 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 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 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 described in this subsection shall, not later than:

(a) ~~[Seven]~~ **Twenty-one** 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}~~ **25** days before the primary election or primary city election;

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election, for the period from ~~{11}~~ **24** days before the primary election or primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election; ~~and~~

—(c) July 15 of the year of

(c) **Twenty-one days before** the general election or general city election, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election through ~~{June 30 of that year,}~~ **25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

→ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form 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 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 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 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 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 described in this subsection shall, not later than:

(a) ~~{Seven}~~ **Twenty-one** 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 ~~{+2}~~ **25** days before the primary election or primary city election; ~~{and}~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election, for the period from ~~{+1}~~ **24** days before the primary election or primary city election through ~~{+2}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election ~~{+}~~ ;

(c) **Twenty-one days before the general election or general city election, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

↪ report each campaign contribution in excess of \$1,000 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~{provided}~~ **made available** 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 under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form 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 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 received during the period and contributions received during the period from a contributor which cumulatively exceed \$1,000. The report must be completed on the form designed and ~~{provided}~~ ***made available*** 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 under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

6. Every 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 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}~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under ***an oath to God or*** 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.

→ ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

7. ~~{The}~~ ***Except as otherwise provided in section 3 of this act, the reports required pursuant to this section must be filed electronically 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] **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.] **Secretary of State.**

9. If the person or group of persons, including a business entity, 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. 9. 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~~ :

(a) *Each* of the campaign expenses in excess of \$100 incurred ~~and each~~ **during the period;**

(b) *Each* amount in excess of \$100 disposed of pursuant to NRS 294A.160 **during the period;**

(c) *The total of all campaign expenses incurred during the period which are \$100 or less; and*

(d) *The total of all amounts disposed of during the period pursuant to NRS 294A.160 which are \$100 or less,*

↪ on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under **an oath to God** or penalty of perjury. **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

2. The provisions of ~~this~~ subsection **1** 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.

[2.] **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 January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~12~~ **25** days before the primary election;

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election for that office, for the period from ~~11~~ **24** days before the primary election through ~~12~~ **5** days before the ~~general~~ **primary** election; ~~and~~

(c) ~~July 15 of the year of~~ **Twenty-one days before** the general election for that office, for the period from ~~11~~ **4** days before the ~~general~~ **primary**

election through ~~{June 30 of that year,}~~ **25 days before the general election; and**

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,

↪ report each of the campaign expenses ~~{in excess of \$100}~~ **described in subsection 1** incurred during the period on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under **an oath to God or** penalty of perjury.

~~{3-}~~ **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

4. 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}~~ **Twenty-one** days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through ~~{12}~~ **25** days before the primary election; ~~{and}~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election for that office, for the period from ~~{11}~~ **24** days before the primary election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election ~~{1}~~ ;

(c) **Twenty-one days before the general election for that office, for the period from 4 days before the primary election through 25 days before the general election; and**

(d) Four days before the general election for that office, for the period from 24 days before the general election through 5 days before the general election,

↪ report each of the campaign expenses ~~{in excess of \$100}~~ **described in subsection 1** incurred during the period on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under **an oath to God or** penalty of perjury.

~~{4-}~~ **A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.**

5. Except as otherwise provided in subsection ~~{5-}~~ **6**, 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}~~ **described in subsection 1** incurred during the period on the form designed and ~~{provided}~~

made available by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under *an oath to God or* penalty of perjury.

~~[5.]~~ *A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.*

6. 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]~~ *described in subsection 1* incurred on the form designed and ~~[provided]~~ *made available* by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under *an oath to God or* 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.]~~

→ A candidate who signs the form under an oath to God is subject to the same penalties as if the candidate had signed the form under penalty of perjury.

~~7. [Reports]~~ *Except as otherwise provided in section 2 of this act, reports* of campaign expenses must be filed *electronically* 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.~~}]~~
Secretary of State.

8. 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]~~ *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. 10. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that 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, and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, 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 the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God** or penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.** The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~25~~ **25** days before the primary election or primary city election;

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~2~~ **5** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election; ~~and~~

(c) ~~July 15 of the year of~~ **Twenty-one days before** the general election or general city election for that office, for the period from ~~11~~ **4** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election through ~~the June 30 of that year,~~ **25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➤ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary

of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) ~~Seven~~ **Twenty-one** days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through ~~12~~ **25** days before the primary election or primary city election; ~~and~~

(b) ~~Seven~~ **Four** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election for that office, for the period from ~~11~~ **24** days before the primary election or primary city election through ~~12~~ **5** days before the ~~general~~ **primary** election or ~~general~~ **primary** city election ~~;~~ ;

(c) **Twenty-one days before the general election or general city election for that office, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election for that office, for the period from 24 days before the general election or general city election through 5 days before the general election or general city election,**

➤ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate 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 the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~{provided}~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of \$100 on the form designed and ~~{provided}~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under ***an oath to God or*** 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.

➤ ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

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}~~ ***Except as otherwise provided in section 3 of this act, the reports must be filed electronically with {***

— (a) ~~If the candidate is elected from one county, the county clerk of that county;~~

— (b) ~~If the candidate is elected from one city, the city clerk of that city; or~~

— (c) ~~If the candidate is elected from more than one county or city,]~~ the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. ~~{A person may mail or transmit the report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.}~~

9. 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~~ **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. 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.~~

~~—10.}~~ Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if the person, committee, political party or business entity receives no contributions.

Sec. 11. 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 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, 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 on the form designed and ~~{provided}~~ ***made available*** 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 under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*** The provisions of this subsection apply to the person, group of persons or business entity:

(a) Each year in which:

(1) An election or city election is held for a question for which the person, group of persons or business entity 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 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 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 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 described in this subsection shall, not later than:

(a) ~~{Seven}~~ **Twenty-one** 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}~~ **25** days before the primary election or primary city election;

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election, for the period from ~~{11}~~ **24** days before the primary election or primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election; ~~{and~~

(c) ~~July 15 of the year of}~~

(c) **Twenty-one days before** the general election or general city election, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election through ~~{the June 30 immediately preceding that July 15,}~~ **25 days before the general election or general city election;** **and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 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 on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form 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 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 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 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 described in this subsection shall, not later than:

(a) ~~[Seven]~~ **Twenty-one** 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}~~ **25** days before the primary election or primary city election; ~~and~~

(b) ~~[Seven]~~ **Four** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election, for the period from ~~{11}~~ **24** days before the primary election or primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** election or ~~{general}~~ **primary** city election ~~{}~~ ;

(c) **Twenty-one days before the general election or general city election, for the period from 4 days before the primary election or primary city election through 25 days before the general election or general city election; and**

(d) **Four days before the general election or general city election, for the period from 24 days before the general election or general city election through 5 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 on the form designed and ~~{provided}~~ **made available** 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 under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form 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 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 on the form designed and ~~{provided}~~ **made**

available 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 under *an oath to God or* penalty of perjury. *A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*

5. Every 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 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 on the form designed and ~~provided~~ *made available* by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the group or business entity under *an oath to God or* 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.

↪ A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.

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}~~ *Except as otherwise provided in section 3 of this act*, reports required pursuant to this section must be filed *electronically* 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.}~~

9. 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~~ **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. 12. NRS 294A.270 is hereby amended to read as follows:

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➤ report each contribution received or made by the committee in excess of \$100 on the form designed and ~~{provided}~~ **made available** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under **an oath to God or** penalty of perjury.

A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of \$100.

4. ~~{Each}~~ **Except as otherwise provided in section 3 of this act, each** report of contributions must be filed **electronically** with the Secretary of State. ~~{The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means.}~~

5. A report shall be deemed to be filed ~~{with the Secretary of State:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the Secretary of State . ~~{if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—5.}~~ **6.** 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, whether from or to a natural person, association or corporation, in excess of \$100 and contributions which a contributor or the committee has

made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 13. NRS 294A.280 is hereby amended to read as follows:

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

↪ report each expenditure made by the committee in excess of \$100 on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of \$100.

4. ~~Each~~ ***Except as otherwise provided in section 3 of this act, each*** report of expenditures must be filed ***electronically*** with the Secretary of State. ~~{The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means.}~~

5. A report shall be deemed to be filed ~~{with the Secretary of State:~~

—(a) On the date that it was mailed if it was sent by certified mail; or

—(b) ~~On~~ ***on*** the date that it was received by the Secretary of State. ~~{if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.}~~

Sec. 14. NRS 294A.283 is hereby amended to read as follows:

294A.283 1. Every 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 shall, not later than the dates listed in subsection 2, report:

(a) Each campaign contribution in excess of \$1,000 received during each period described in subsection 2;

(b) Contributions received during each period described in subsection 2 from a contributor which cumulatively exceed \$1,000;

(c) Each expenditure in excess of \$1,000 the person, group of persons or business entity makes during each period described in subsection 2; and

(d) The total amount of money the person, group of persons or business entity has at the beginning of each period described in subsection 2, accounting for all contributions received and expenditures made during each previous period.

2. Every person, group of persons or business entity required to report pursuant to subsection 1 shall file that report with the Secretary of State:

(a) For the period beginning on the first day a copy of the petition may be filed with the Secretary of State before it is circulated for signatures pursuant to Section 1 or Section 2 of Article 19 of the Nevada Constitution, as applicable, and ending on the following March 31, not later than April 15;

(b) For the period beginning on April 1 and ending on July 31, not later than August 15;

(c) For the period beginning on August 1 and ending on September 30, not later than October 15; and

(d) For the period beginning on October 1 and ending on December 31, not later than the following January 15.

3. The name and address of the contributor and the date on which the contribution was received must be included on each report for each contribution in excess of \$1,000 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the applicable reporting period.

4. 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 each report.

5. Each report required pursuant to this section must:

(a) Be on the form designed and ~~provided~~ ***made available*** by the Secretary of State pursuant to NRS 294A.373; and

(b) Be signed by the person or a representative of the group of persons or business entity under ***an oath to God or*** penalty of perjury. ***A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.***

6. ~~{A}~~ ***Except as otherwise provided in section 3 of this act, a*** person, group of persons or business entity ~~{may mail or transmit}~~ ***shall file*** each report ~~{to}~~ ***electronically with*** the Secretary of State . ~~{by certified mail, regular mail, facsimile machine or electronic means or may deliver the report personally.}~~

7. A report shall be deemed to be filed ~~{with the Secretary of State:~~

—(a) On the date that it was mailed if it was sent by certified mail; or

~~—(b) On~~ **on** the date that it was received by the Secretary of State . ~~if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

Sec. 15. 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~~ **made available** by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under **an oath to God or** penalty of perjury. **A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.**

3. ~~The~~ **Except as otherwise provided in section 2 of this act,** 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.

Sec. 16. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. ~~Every~~ **Except as otherwise provided in section 2 of this act, 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.

2. ~~Every~~ **Except as otherwise provided in section 2 of this act, 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~~ **Twenty-one** days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through ~~2~~ **25** days before the primary city election;

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ **24** days before the primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** city election; ~~and~~
 —(c) July 15 of the year of

(c) **Twenty-one days before** the general city election for that office, for the period from ~~{11}~~ **4** days before the ~~{general}~~ **primary** city election through ~~{the June 30 of that year.}~~ **25 days before the general city election; and**

(d) **Four days before the general city election for that office, for the period from 24 days before the general city election through 5 days before the general city election.**

3. ~~{Every}~~ **Except as otherwise provided in section 2 of this act, 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}~~ **Twenty-one** days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through ~~{12}~~ **25** days before the primary city election; ~~and~~

(b) ~~{Seven}~~ **Four** days before the ~~{general}~~ **primary** city election for that office, for the period from ~~{11}~~ **24** days before the primary city election through ~~{12}~~ **5** days before the ~~{general}~~ **primary** city election ~~{-}~~ ;

(c) **Twenty-one days before the general city election for that office, for the period from 4 days before the primary city election through 25 days before the general city election; and**

(d) **Four days before the general city election for that office, for the period from 24 days before the general city election through 5 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. 17. NRS 294A.362 is hereby amended to read as follows:

294A.362 1. In addition to reporting information pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360, each candidate who is required to file a report of campaign contributions and expenses pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360 shall report on the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373 goods and services provided in kind for which money would otherwise have been paid. The candidate shall list on the form ~~each~~ :

(a) *Each* such campaign contribution in excess of \$100 received during the reporting period ~~each~~ ;

(b) *Each* such campaign contribution from a contributor received during the reporting period which cumulatively exceeds \$100 ~~and each~~ ;

(c) *Each* such expense in excess of \$100 incurred during the reporting period ~~it~~ ;

(d) *The total of all such campaign contributions received during the reporting period which are \$100 or less and which are not otherwise required to be reported pursuant to paragraph (b); and*

(e) *The total of all such expenses incurred during the reporting period which are \$100 or less.*

2. The Secretary of State and each city clerk shall not require a candidate to list the campaign contributions and expenses described in this section on any form other than the form designed and ~~provided~~ **made available** by the Secretary of State pursuant to NRS 294A.373.

3. *Except as otherwise provided in section 2 of this act, the report required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360.*

Sec. 18. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design ~~a single form~~ **forms** 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~~ **forms** designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. ~~Upon request, the~~ **The** Secretary of State shall ~~provide~~ **make available to each candidate, person, committee, political party, group of persons or business entity that is required to file a report described in subsection 1:**

(a) *If the candidate, person, committee, political party, group or business entity has submitted an affidavit to the Secretary of State pursuant to section 2 or 3 of this act, as applicable, 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.; *or*

(b) If the candidate, person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State, access through a secure website to the form.

4. *If the candidate, person, committee, political party, group of persons or business entity is required to submit electronically a report described in subsection 1, the form must be signed electronically under an oath to God or penalty of perjury. A person who signs the form under an oath to God is subject to the same penalties as if the person had signed the form under penalty of perjury.*

5. The Secretary of State must obtain the advice and consent of the Legislative Commission before ~~{providing}~~ **making** a copy of , *or access to*, a form designed or revised by the Secretary of State pursuant to this section **available** to a *candidate*, person, committee, political party, group of persons or business entity . ~~{that is required to use the form.}~~

Sec. 18.5. 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}~~ **made available** pursuant to NRS 294A.373.

Sec. 19. 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.227; *or*

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 *or entity* 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. 20. 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, **294A.360 and 294A.362**, 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. 21. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 22 and 23 of this act.

Sec. 22. ~~1. Except as otherwise provided in subsection 2, a former public officer shall not receive compensation or other consideration to:~~

~~— (a) Appear in person in the building in which the governing body holds meetings; and~~

~~— (b) Communicate directly with a member of the governing body on behalf of someone other than himself or herself to influence legislative action;~~

~~— for a period of 2 years after the end of his or her term of office or appointment.~~

~~2. The provisions of subsection 1 do not apply to a former public officer in any of the following circumstances:~~

~~— (a) The former public officer is an employee of a bona fide news medium who engages in conduct described in subsection 1 only in the course of his or her professional duties and who contacts members of the governing body for the sole purpose of carrying out his or her news gathering function;~~

~~— (b) The former public officer is now an officer or employee of a governing body other than the governing body to which the former public officer was elected or appointed, if the appearance or communication is for the purpose of influencing legislative action on behalf of that governing body;~~

~~— (c) The former public officer is an elected officer of this State or a political subdivision who confines his or her appearance or communication with the governing body to issues directly related to the scope of the office to which he or she was elected;~~

~~3. As used in this section:~~

~~— (a) "Consideration" means a gift, salary, payment, distribution, loan, advance or deposit of money or anything of value and includes, without limitation, a contract, promise or agreement, whether or not legally enforceable;~~

~~— (b) "Governing body" means the legislative body of the State or political subdivision to which the former public officer was elected or appointed, or any standing committee thereof;~~

~~— (c) "Legislative action" means introduction, sponsorship, debate, voting and any other official action on any bill, resolution, ordinance, amendment, nomination, appointment, report and any other matter pending before or proposed by a governing body, or on any matter which may be the subject of action by the governing body.] (Deleted by amendment.)~~

Sec. 23. 1. A candidate or public officer who is required to file a statement of financial disclosure with the Secretary of State pursuant to NRS 281A.600 or 281A.610 is not required to file the statement electronically if the candidate or public officer has on file with the

Secretary of State an affidavit which satisfies the requirements set forth in subsection 2 and which states that:

(a) The candidate or public officer does not own or have the ability to access the technology necessary to file electronically the statement of financial disclosure; and

(b) The candidate or public officer does not have the financial ability to purchase or obtain access to the technology necessary to file electronically the statement of financial disclosure.

2. The affidavit described in subsection 1 must be:

(a) In the form prescribed by the Secretary of State and signed under an oath to God or penalty of perjury. A candidate or public officer who signs the affidavit under an oath to God is subject to the same penalties as if the candidate or public officer had signed the affidavit under penalty of perjury.

(b) Except as otherwise provided in subsection 4, filed not less than 15 days before the statement of financial disclosure is required to be filed.

3. A candidate or public officer who is not required to file the statement of financial disclosure electronically may file the statement of financial disclosure by transmitting the statement by regular mail, certified mail, facsimile machine or personal delivery. A statement of financial disclosure transmitted pursuant to this subsection shall be deemed to be filed on the date that it was received by the Secretary of State.

4. A person who is appointed to fill the unexpired term of an elected or appointed public officer must file the affidavit described in subsection 1 not later than 15 days after his or her appointment to be exempted from the requirement of filing a report electronically.

Sec. 24. NRS 281A.240 is hereby amended to read as follows:

281A.240 1. In addition to any other duties imposed upon the Executive Director, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281A.440.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the investigatory panel appointed pursuant to NRS 281A.220 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize

that the Executive Director is not a member of the Commission and that only the Commission may issue opinions concerning the application of the statutory ethical standards to any given set of facts and circumstances. The Commission may charge a reasonable fee to cover the costs of training provided by the Executive Director pursuant to this subsection.

(f) Perform such other duties, not inconsistent with law, as may be required by the Commission.

2. The Executive Director shall, within the limits of legislative appropriation, employ such persons as are necessary to carry out any of the Executive Director's duties relating to:

(a) The administration of the affairs of the Commission; *and*

(b) ~~{The review of statements of financial disclosure; and~~

~~—(c) The investigation of matters under the jurisdiction of the Commission.~~

Sec. 25. NRS 281A.290 is hereby amended to read as follows:

281A.290 The Commission shall:

1. Adopt procedural regulations:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the request; and

(d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, ~~{forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and}~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~{Except as otherwise provided in NRS 281A.600, inform}~~ **Inform** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter ~~{ }~~ , ***other than cases of noncompliance with NRS 281A.600, 281A.610 and 281A.620.***

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;

(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and

(c) An abstract of the requirements of this chapter.

↪ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 26. NRS 281A.470 is hereby amended to read as follows:

281A.470 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of the public officer's or employee's own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct the public officer's or employee's inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~{Commission}~~ **Secretary of State** for review; and

(2) Upon review, approved by the ~~{Commission.}~~ **Secretary of State.**

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 27. ~~{NRS 281A.550 is hereby amended to read as follows:~~

~~—281A.550 1. A former member of the Public Utilities Commission of Nevada shall not:~~

~~—(a) Be employed by a public utility or parent organization or subsidiary of a public utility [;] for 1 year after the termination of the member's service on the Public Utilities Commission of Nevada; or~~

~~—(b) Appear before the Public Utilities Commission of Nevada to testify on behalf of a public utility or parent organization or subsidiary of a public utility [;]~~

↪ ~~for 1 year] for 2 years after the termination of the member's service on the Public Utilities Commission of Nevada.~~

~~—2. A former member of the State Gaming Control Board or the Nevada Gaming Commission shall not:~~

~~—(a) Appear before the State Gaming Control Board or the Nevada Gaming Commission on behalf of a person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS [;] for 2 years after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission; or~~

~~—(b) Be employed by such a person [;]~~

~~—} for 1 year after the termination of the member's service on the State Gaming Control Board or the Nevada Gaming Commission.~~

~~—3. In addition to the prohibitions set forth in subsections 1 and 2, and except as otherwise provided in subsections 4 and 6, a former public officer or employee of a board, commission, department, division or other agency of the Executive Department of State Government, except a clerical employee, shall not solicit or accept employment from a business or industry whose activities are governed by regulations adopted by the board, commission, department, division or other agency for 1 year after the termination of the former public officer's or employee's service or period of employment if:~~

~~—(a) The former public officer's or employee's principal duties included the formulation of policy contained in the regulations governing the business or industry;~~

~~—(b) During the immediately preceding year, the former public officer or employee directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ the former public officer or employee; or~~

~~—(c) As a result of the former public officer's or employee's governmental service or employment, the former public officer or employee possesses knowledge of the trade secrets of a direct business competitor.~~

~~—4. The provisions of subsection 3 do not apply to a former public officer who was a member of a board, commission or similar body of the State if:~~

~~—(a) The former public officer is engaged in the profession, occupation or business regulated by the board, commission or similar body;~~

~~—(b) The former public officer holds a license issued by the board, commission or similar body; and~~

~~—(c) Holding a license issued by the board, commission or similar body is a requirement for membership on the board, commission or similar body.~~

~~—5. Except as otherwise provided in subsection 6, a former public officer or employee of the State or a political subdivision, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or political subdivision, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:~~

~~—(a) The amount of the contract exceeded \$25,000;~~

~~—(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and~~

~~—(c) The position held by the former public officer or employee at the time the contract was awarded allowed the former public officer or employee to affect or influence the awarding of the contract.~~

~~—6. A current or former public officer or employee may request that the Commission apply the relevant facts in that person's case to the provisions of subsection 3 or 5, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission determines that relief from the strict application of the provisions of subsection 3 or 5, as applicable, is not contrary to:~~

~~—(a) The best interests of the public;~~

~~—(b) The continued ethical integrity of the State Government or political subdivision, as applicable; and~~

~~—(c) The provisions of this chapter;~~

~~→ it may issue an opinion to that effect and grant such relief. The opinion of the Commission in such a case is final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the current or former public officer or employee.~~

~~—7. Each request for an opinion that a current or former public officer or employee submits to the Commission pursuant to subsection 6, each opinion rendered by the Commission in response to such a request and any motion, determination, evidence or record of a hearing relating to such a request are confidential unless the current or former public officer or employee who requested the opinion:~~

~~—(a) Acts in contravention of the opinion, in which case the Commission may disclose the request for the opinion, the contents of the opinion and any motion, evidence or record of a hearing related thereto;~~

~~—(b) Discloses the request for the opinion, the contents of the opinion or any motion, evidence or record of a hearing related thereto; or~~

~~—(c) Requests the Commission to disclose the request for the opinion, the contents of the opinion, or any motion, evidence or record of a hearing related thereto.~~

~~—8. A meeting or hearing that the Commission or an investigatory panel holds to receive information or evidence concerning the propriety of the conduct of a current or former public officer or employee pursuant to this section and the deliberations of the Commission and the investigatory panel on such information or evidence are not subject to the provisions of chapter 241 of NRS.~~

~~—9. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038 and also includes regulations adopted by a board, commission, department, division or other agency of the Executive~~

~~Department of State Government that is exempted from the requirements of chapter 233B of NRS.~~ **(Deleted by amendment.)**

Sec. 28. NRS 281A.600 is hereby amended to read as follows:

281A.600 1. Except as otherwise provided in ~~{subsection 2,}~~ ***subsections 2 and 3 and section 23 of this act***, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, the public officer shall file ***electronically*** with the ~~{Commission}~~ ***Secretary of State*** a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

➤ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which the person is required to file a statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. ~~{The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

— (a) ~~The name of each public officer who failed to file a statement of financial disclosure within the period before the notice is sent;~~

— (b) ~~The name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

— (c) ~~For the first notice sent after the public officer filed a statement of financial disclosure, the name of each public officer who filed a statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

— (d) ~~For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~—5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~—6.} A statement of financial disclosure shall be deemed to be filed {with the Commission:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On} on the date that it was received by the {Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.} Secretary of State.~~

5. Except as otherwise provided in section 23 of this act, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.

6. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

Sec. 29. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in ~~{subsection 2.}~~ **subsections 2 and 3 and section 23 of this act**, each candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which the public officer is serving shall file **electronically** with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if the candidate is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which the candidate is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, the candidate need not file the statement required by subsection 1 for the full calendar year for which the candidate previously

filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed ~~with the Secretary of State:~~

~~—(a) On the date that it was mailed if it was sent by certified mail; or~~

~~—(b) On~~ **on** the date that it was received by the Secretary of State . ~~if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~—6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.~~

~~—7. The~~

6. Except as otherwise provided in section 23 of this act, the Secretary of State shall ~~prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.~~ provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section.

7. The Secretary of State may adopt regulations necessary to carry out the provisions of this section.

Sec. 30. NRS 281A.620 is hereby amended to read as follows:

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such **electronic** form as the ~~Commission~~ **Secretary of State** otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) The candidate's or public officer's length of residence in the State of Nevada and the district in which the candidate for public office or public officer is registered to vote.

(b) Each source of the candidate's or public officer's income, or that of any member of the candidate's or public officer's household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which the candidate for public office or public officer or a member of the candidate's or public officer's household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom the candidate for public office or public officer or a member of the candidate's or public officer's household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which the candidate for public office or public officer or a member of the candidate's or public officer's household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by the candidate for public office or public officer for which this statement of financial disclosure is required.

2. ~~The [Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.]~~
Secretary of State may adopt regulations necessary to carry out the provisions of this section.

3. As used in this section, "member of the candidate's or public officer's household" includes:

(a) The spouse of the candidate for public office or public officer;

(b) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(c) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 31. NRS 281A.630 is hereby amended to read as follows:

281A.630 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281A.600, 281A.610 and 281A.620 must be retained by the ~~{Commission or}~~ Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 32. NRS 281A.640 is hereby amended to read as follows:

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~{Commission and to the}~~ Secretary of State, in a form prescribed by the ~~{Commission.}~~ **Secretary of State**, on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~{The Secretary of State, each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Commission, and each}~~ **Each** county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the ~~{Commission.}~~ **Secretary of State**, a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 33. NRS 281A.650 is hereby amended to read as follows:

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate :

1. *If the candidate is a candidate for judicial office*, the form prescribed by the ~~{Commission}~~ **Administrative Office of the Courts** for the making of a statement of financial disclosure ~~{}~~ ;

2. *If the candidate is not a candidate for judicial office and is required to file electronically the statement of financial disclosure, access to the electronic form prescribed by the Secretary of State; or*

3. *If the candidate is not a candidate for judicial office, is required to submit the statement of financial disclosure electronically and has submitted an affidavit to the Secretary of State pursuant to section 23 of this act, the form prescribed by the Secretary of State,*

↪ accompanied by instructions on how to complete the form ~~{, where it must be filed}~~ and the time by which it must be filed.

Sec. 34. ~~{1. This section and sections 22 and 27 of this act become effective on July 1, 2011.~~

~~2. Sections 1 to 21, inclusive, 23 to 26, inclusive, and 28 to 33, inclusive, of this act become effective on January 1, 2012.~~
This act becomes effective on January 1, 2012.

Senator Parks moved the adoption of the amendment.

Remarks by Senators Parks and Hardy.

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

SENATOR PARKS:

Assembly Bill No. 452 relates to campaign finance.

Amendment No. 834 makes the following changes: a person signing campaign contribution and expenditure reports who signs the report under an oath to God is still subject to the same penalties as if he or she signed under penalty of perjury; and for cooling off periods applicable to former members of certain state agencies and former public officers, they are removed from the bill.

SENATOR HARDY:

Thank you, Mr. President. The amendments are scattered through the bill. It says, "a person who signs a form under an oath to God is subject to the same penalties."

What if the person is an atheist?

SENATOR PARKS:

Thank you, Mr. President. They would have to sign, "under penalty of perjury."

SENATOR HARDY:

There are some people who believe in God. They may have a problem in taking an oath or swearing to something. Therefore, they have different verbiage they use. Would they be covered under "taking a statement under penalty of perjury" and it would still be all right?

SENATOR PARKS:

Thank you, Mr. President. Yes, the language was reviewed by the Secretary of State's Office. They had no problem with the language. The lines on the various forms would add the condition that it has been signed under penalty of perjury or that you have signed it under an oath to God.

Amendment adopted.

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

Assembly Bill No. 471.

Bill read second time.

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

Amendment No. 749.

"SUMMARY—Revises provisions relating to enterprise funds. (BDR 31-915)"

"AN ACT relating to local government financial administration; limiting the authority of a governing body of a local government to loan or transfer money from an enterprise fund and to increase fees imposed for the purpose of an enterprise fund; requiring certain reports from the Committee on Local Government Finance; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Local Government Budget and Finance Act authorizes the governing body of a local government to establish certain funds, including an enterprise fund to account for operations which are financed and conducted in a manner similar to the operations of a private business, where the intent of the governing body is to have the expenses of providing goods or services to the general public financed through charges imposed on users. (NRS 354.470-354.626) **Section 1** of this bill allows a governing body of a local government to loan or transfer money from an enterprise fund only if the loan or transfer is made: (1) as a medium-term obligation in compliance with certain requirements; (2) to pay the expenses of the pertinent enterprise; (3) for a cost allocation for employees, equipment or other resources; or (4) upon the dissolution of the fund. In addition, **section 1** allows such a governing body to increase the amount of the fees imposed for the purpose for which an enterprise fund was created only if the ~~{Committee on Local Government Finance approves that increase or the fees are imposed on certain public utilities for a right-of-way over a public area. Lastly,}~~ **fees are used for certain specified purposes or the governing body determines that: (1) the increase is not prohibited by law; (2) the increase is necessary for the pertinent enterprise; and (3) all fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected. Furthermore, section 1** requires the Committee **on Local Government Finance** to submit biennial reports to the Legislature regarding compliance with the requirements of that section. **Section 9** of this bill provides that any officer or employee of a local government who violates **section 1** is guilty of a misdemeanor and upon conviction ceases to hold his or her office or employment.

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

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~[The]~~ Except as otherwise provided in this section, the governing body of a local government may, on or after July 1, 2011, loan or transfer money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund only if the loan or transfer is made:

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of chapter 350 of NRS, the loan or transfer is proposed to be made and the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

(1) The money is repaid in full to the enterprise fund within 5 years;
or

(2) If the recipient will be unable to repay the money in full to the enterprise fund within 5 years, the recipient notifies the Committee on Local Government Finance of:

(I) The total amount of the loan or transfer;

(II) The purpose of the loan or transfer;

(III) The date of the loan or transfer; and

(IV) The estimated date that the money will be repaid in full to the enterprise fund;

(b) To pay the expenses related to the purpose for which the enterprise fund was created;

(c) For a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund ~~and~~ which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body; or

(d) Upon the dissolution of the enterprise fund.

2. Except as otherwise provided in ~~subsection 3,~~ this section, the governing body of a local government may increase the amount of any fee imposed for the purpose for which an enterprise fund was created only if the ~~Committee on Local Government Finance~~ governing body approves the increase ~~f. The Committee may approve such an increase if it~~ under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and the governing body determines that:

(a) The increase is not prohibited by law;

(b) The increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created; and

(c) ~~[The governing body is not using any money from the enterprise fund, any money collected from fees imposed for the purpose for which the enterprise fund was created or any income or interest earned on money in the enterprise fund for any purpose other than that for which the enterprise fund was created, except to repay any money loaned or transferred to the enterprise fund from another fund of the local government or of another local government to provide working capital for the enterprise fund.]~~

~~—3.7 All fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.~~

3. Upon the adoption of an increase in any fee pursuant to subsection 2, the governing body shall, except as otherwise provided in this subsection, provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement does not apply to the governing body of a federally regulated airport.

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility in compliance with the provisions of NRS 354.59881 to 354.59889, inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in NRS 354.598817.

~~[4.7 5. This section must not be construed to:~~

(a) Prohibit a local government from increasing a fee or using money in an enterprise fund to repay a loan lawfully made to the enterprise fund from another fund of the local government; or

(b) Prohibit or impose any substantive or procedural limitations on any increase of a fee that is necessary to meet the requirements of an instrument that authorizes any bonds or other debt obligations which are secured by or payable from, in whole or in part, money in the enterprise fund or the revenues of the enterprise for which the enterprise fund was created.

6. The Department of Taxation shall provide to the Committee on Local Government Finance a copy of each report submitted to the Department on or after July 1, 2011, by a county or city pursuant to NRS 354.6015. The Committee shall:

(a) Review each report to determine whether the governing body of the local government is in compliance with the provisions of this section; and

(b) On or before January 15 of each odd-numbered year, submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~[5. As used in this section, "public utility" has the meaning ascribed to it in NRS 354.598817.]~~

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in NRS 354.626. Any person who pays a fee for the enterprise for which the enterprise fund is created may file a complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to NRS 354.626.

8. For the purposes of paragraph (c) of subsection 1, the Committee on Local Government Finance shall adopt regulations setting forth the extent to which general, overhead, administrative and similar expenses of a local

government of a type described in paragraph (c) of subsection 1 may be allocated to an enterprise fund. The regulations must require that:

(a) Each cost allocation makes an equitable distribution of all general, overhead, administrative and similar expenses of the local government among all activities of the local government, including the activities funded by the enterprise fund; and

(b) Only the enterprise fund's equitable share of those expenses may be treated as expenses of the enterprise fund and allocated to it pursuant to paragraph (c) of subsection 1.

9. Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:

(a) Does not increase the amount of the transfers to subsidize the general fund in any fiscal year beginning on or after July 1, 2011, above the amount transferred in the fiscal year ending on June 30, 2011, except for loans and transfers that comply with the provisions of subsection 1; and

(b) Does not, on or after July 1, 2011, increase any fees for any enterprise fund used to subsidize the general fund except for increases described in paragraph (b) of subsection 5.

10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.

11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.

Sec. 2. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, **and section 1 of this act** may be cited as the Local Government Budget and Finance Act.

Sec. 3. NRS 354.472 is hereby amended to read as follows:

354.472 1. The purposes of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** are:

(a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.

(b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.

(c) To provide for estimation and determination of revenues, expenditures and tax levies.

(d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.

(e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.

2. For the accomplishment of these purposes, the provisions of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** must be broadly and liberally construed.

Sec. 4. 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, **and section 1 of this act** apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive ~~{ }~~, **and section 1 of this act**:

(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" does not include the Nevada Rural Housing Authority.

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, **and section 1 of this act**, 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, **and section 1 of this act** 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, **and section 1 of this act** 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. 5. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in

NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 354.524 is hereby amended to read as follows:

354.524 "Final budget" means the budget which has been adopted by a local governing body or adopted by default as defined by NRS 354.470 to 354.626, inclusive, *and section 1 of this act* and which has been determined by the Department of Taxation to be in compliance with applicable statutes and regulations.

Sec. 7. NRS 354.594 is hereby amended to read as follows:

354.594 The Committee on Local Government Finance shall determine and advise local government officers of regulations, procedures and report forms for compliance with NRS 354.470 to 354.626, inclusive ~~†~~ , *and section 1 of this act*.

Sec. 8. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.

(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in NRS 354.59891 ~~†~~ *and section 1 of this act*, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

Sec. 9. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, *and section 1 of this act* is guilty of a misdemeanor and upon conviction thereof ceases to hold his or her office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

➡ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing

body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

(l) An agreement authorized pursuant to NRS 277A.370.

Sec. 10. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the governing body of a local government may, on or after July 1, 2011, loan or transfer money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund only if the loan or transfer is made:

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of chapter 350 of NRS, the loan or transfer is proposed to be made and the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

(1) The money is repaid in full to the enterprise fund within 5 years; or

(2) If the recipient will be unable to repay the money in full to the enterprise fund within 5 years, the recipient notifies the Committee on Local Government Finance of:

(I) The total amount of the loan or transfer;

(II) The purpose of the loan or transfer;

(III) The date of the loan or transfer; and

(IV) The estimated date that the money will be repaid in full to the enterprise fund;

(b) To pay the expenses related to the purpose for which the enterprise fund was created;

(c) For a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body; or

(d) Upon the dissolution of the enterprise fund.

2. Except as otherwise provided in this section, the governing body of a local government may increase the amount of any fee imposed for the purpose for which an enterprise fund was created only if the governing body approves the increase under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and the governing body determines that:

- (a) The increase is not prohibited by law;
- (b) The increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created; and
- (c) All fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.

3. Upon the adoption of an increase in any fee pursuant to subsection 2, the governing body shall, except as otherwise provided in this subsection, provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement does not apply to the governing body of a federally regulated airport.

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility in compliance with the provisions of NRS 354.59881 to 354.59889, inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in NRS 354.598817.

5. This section must not be construed to:

- (a) Prohibit a local government from increasing a fee or using money in an enterprise fund to repay a loan lawfully made to the enterprise fund from another fund of the local government; or

- (b) Prohibit or impose any substantive or procedural limitations on any increase of a fee that is necessary to meet the requirements of an instrument that authorizes any bonds or other debt obligations which are secured by or payable from, in whole or in part, money in the enterprise fund or the revenues of the enterprise for which the enterprise fund was created.

6. The Department of Taxation shall provide to the Committee on Local Government Finance a copy of each report submitted to the Department on or after July 1, 2011, by a county or city pursuant to NRS 354.6015. The Committee shall:

- (a) Review each report to determine whether the governing body of the local government is in compliance with the provisions of this section; and

- (b) On or before January 15 of each odd-numbered year, submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in NRS 354.626. Any person who pays a fee for the enterprise for which the enterprise fund is created may file a complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to NRS 354.626.

8. For the purposes of paragraph (c) of subsection 1, the Committee on Local Government Finance shall adopt regulations setting forth the extent to which general, overhead, administrative and similar expenses of a local government of a type described in paragraph (c) of subsection 1 may be allocated to an enterprise fund. The regulations must require that:

(a) Each cost allocation makes an equitable distribution of all general, overhead, administrative and similar expenses of the local government among all activities of the local government, including the activities funded by the enterprise fund; and

(b) Only the enterprise fund's equitable share of those expenses may be treated as expenses of the enterprise fund and allocated to it pursuant to paragraph (c) of subsection 1.

~~10. Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:~~

~~—(a) Does not increase the amount of the transfers to subsidize the general fund in any fiscal year beginning on or after July 1, 2011, above the amount transferred in the fiscal year ending on June 30, 2011, except for loans and transfers that comply with the provisions of subsection 1; and~~

~~—(b) Does not, on or after July 1, 2011, increase any fees for any enterprise fund used to subsidize the general fund except for increases described in paragraph (b) of subsection 5.~~

~~10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.~~

~~11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.~~

~~{Sec. 10.}~~ **Sec. 11.** Section 3.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.130 Department of Financial Management: Director; qualifications; duties.

1. The City Council shall establish a Department of Financial Management, the head of which is the Director of Financial Management. The Department of Financial Management may also

include such other qualified personnel as the City Manager determines are necessary properly to handle the financial matters of the City.

2. The Director of Financial Management:

(a) Must have knowledge of municipal accounting and taxation.

(b) Must have experience in budgeting and financial control.

(c) Has charge of the administration of the financial affairs of the City.

(d) Must provide a surety bond in the amount which is fixed by the City Council.

(e) Shall perform or cause to be performed on behalf of the City all of the duties and responsibilities which are imposed upon the City by NRS 354.470 to 354.626, inclusive ~~11~~, **and section 1 of this act.**

3. The City Council may establish by ordinance such regulations as it deems are necessary for the proper conduct of the Department of Financial Management and its officers and employees.

Sec. 12. The Committee on Local Government Finance shall, on or before January 1, 2012, adopt such regulations as the Committee determines to be necessary to carry out the provisions of subsection 8 of section 1 of this act.

~~{Sec. 11}~~ **Sec. 13. 1. This ~~act becomes~~ section and sections 1 to 9, inclusive, 11 and 12 of this act become** effective on July 1, 2011.

2. Section 10 of this act becomes effective on July 1, 2021.

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. 749 to Assembly Bill No. 471 amends Section 1 to provide that a loan from the enterprise fund relating to a medium-term obligation, a cost allocation for employees, equipment, or other resources, or an enterprise fund fee increase must be made with the approval of the governing body under a non-consent item that is separately listed on the agenda for a regular meeting.

It provides that the governing body, and not the Committee on Local Government Finance, may approve a fee increase associated with an enterprise fund, provided the governing body determines that all fees that are deposited in the enterprise fund are being used solely for the purposes for which the fees are collected.

The amendment requires, upon adoption of any fee increase, the governing body to provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement would not apply to the governing body of a federally regulated airport.

It requires the Committee on Local Government Finance to adopt regulations setting forth the extent to which general, overhead, and administrative expenses may be allocated to an enterprise fund. These regulations must be adopted no later than January 1, 2012; and it sets forth a procedure to assist a local government that has been using an enterprise fund to subsidize their general funds for the past five years by requiring the local government to develop a plan, no later than July 1, 2012, to cease such subsidization by July 1, 2021. After July 1, 2021, no general fund subsidization shall occur.

Amendment adopted.

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

Assembly Bill No. 473.

Bill read second time.

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

Amendment No. 836.

"SUMMARY—Revises provisions governing elections. (BDR 24-1021)"

"AN ACT relating to elections; ~~amending the requirements of a declaration or acceptance of candidacy for certain offices;~~ revising the deadline for preparing and sending absent ballots to certain voters; revising the hours of operation during the final days of voter registration; ~~requiring online voter registration to remain open until midnight on the day before early voting begins;~~ requiring that complaints challenging initiatives or referenda be given priority over all other matters pending before the court, except for criminal proceedings; revising the filing deadline for candidates for the Board of the Virgin Valley Water District; making various other changes relating to elections; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Under existing law, a person declaring or accepting candidacy must declare of which political party he or she is a registered member. (NRS 293.177) Section 1 of this bill requires a person declaring or accepting candidacy to declare that he or she is currently registered as a member of a particular party.]~~

Under existing law, the name of the political party of a partisan candidate must follow the name of the candidate on the ballot and the word "nonpartisan" must follow the name of a nonpartisan candidate. **Section 3** of this bill authorizes the use of abbreviations of the party name or "independent" or "nonpartisan," as applicable.

Under existing law, a person who registers to vote by mail must provide certain identification before voting at a polling place or by mail. (NRS 293.2725) **Section 4** of this bill requires that a photo identification used for this purpose shows the physical address of the person.

Under existing law, the county clerk of each county is required to prepare absent ballots for registered voters who have requested them. (NRS 293.309) **Sections 5 and 10** of this bill require the county or city clerk, as applicable, to prepare and have ready for distribution absent ballots for persons who applied for absent ballots pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before an election.

Under existing law, a county clerk is required to consider a request for an absent ballot on a form provided by the Federal Government as a request for an absent ballot for the two primary and general elections following receipt of the request. (NRS 293.313) **Sections 6 and 11** of this bill remove the requirement that the request be considered for two elections.

Sections 7 and 12 of this bill remove the requirement that counting board officers record the number of votes received by each candidate or for and against any question submitted to the electors in words and figures.

~~[Existing law authorizes a county to establish a system for using a computer to register voters. (NRS 293.506) Section 8 of this bill requires a county that establishes a system for online voter registration to keep online registration open until midnight on the day before early voting begins.]~~

Existing law requires that city and county clerk offices be open at certain times during the registration period. (NRS 293.560, 293C.527, 349.017, 710.153) **Sections 9, 13, 15 and 16** of this bill revise the hours of operation of the office of the city or county clerk during the registration period.

Under existing law, a complaint challenging an initiative or referendum receives priority over all criminal proceedings. (NRS 295.061) **Section 14** of this bill requires the court to give such a complaint priority over all other matters pending with the court, except for criminal proceedings.

Section 17 of this bill changes the filing deadline for candidates for election to the governing board of the Virgin Valley Water District from at least 60 days before the election to not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.

Under existing law, political parties are authorized to recommend three registered voters to the county clerk to act as election board officers. (NRS 293.219) **Section 18** of this bill removes that requirement.

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

Section 1. ~~[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 **currently** 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. } **(Deleted by amendment.)**~~

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 293.267 is hereby amended to read as follows:

293.267 1. Ballots for a general election must contain the names of candidates who were nominated at the primary election, the names of the candidates of a minor political party and the names of independent candidates.

2. Except as otherwise provided in NRS 293.2565, names of candidates must be grouped alphabetically under the title and length of term of the office for which those candidates filed.

3. Except as otherwise provided in subsection 4:

(a) Immediately following the name of each candidate for a partisan office must appear the name *or abbreviation* of his or her political party, ~~for~~ the word "independent ~~or~~" *or the abbreviation "IND,"* as the case may be.

(b) Immediately following the name of each candidate for a nonpartisan office must appear the word "nonpartisan ~~or~~" *or the abbreviation "NP."*

4. Where a system of voting other than by paper ballot is used, the Secretary of State may provide for any placement of the name *or abbreviation* of the political party, ~~for~~ the word "independent" or "nonpartisan" *or the abbreviation "IND" or "NP," as appropriate*, which clearly relates the designation to the name of the candidate to whom it applies.

5. If the Legislature rejects a statewide measure proposed by initiative and proposes a different measure on the same subject which the Governor approves, the measure proposed by the Legislature and approved by the Governor must be listed on the ballot before the statewide measure proposed by initiative. Each ballot and sample ballot upon which the measures appear must contain a statement that reads substantially as follows:

The following questions are alternative approaches to the same issue, and only one approach may be enacted into law. Please vote for only one.

Sec. 4. 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 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~~, *which shows his or her physical address;* 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~~, *which shows his or her physical address;* 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.

↪ ***If there is a question as to the physical address of the person, the election board officer or clerk may request additional information.***

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. 5. NRS 293.309 is hereby amended to read as follows:

293.309 1. The county clerk of each county shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The county clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who:

(a) Resides within the State, not later than 20 days before the election in which it is to be used; ~~{or}~~

(b) ~~{Resides}~~ ***Except as otherwise provided in paragraph (c), resides*** outside the State, not later than 40 days before a primary or general election, if possible ~~{-}~~ ; ***or***

(c) ***Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before the election.***

3. Any legal action which would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 6. NRS 293.313 is hereby amended to read as follows:

293.313 1. Except as otherwise provided in NRS 293.272 and 293.502, a registered voter who provides sufficient written notice to the county clerk may vote an absent ballot as provided in this chapter.

2. A registered voter who:

- (a) Is at least 65 years of age; or
- (b) Has a physical disability or condition which substantially impairs his or her ability to go to the polling place,
➔ may request an absent ballot for all elections held during the year he or she requests an absent ballot.

3. A county clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as a request for an absent ballot for the ~~two~~ primary and general elections immediately following the date on which the county clerk received the request.

4. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot which is signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State which is completed and signed by the registered voter and returned to the county clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

Sec. 7. NRS 293.370 is hereby amended to read as follows:

293.370 1. When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received. ~~{The number must be expressed in words and figures.}~~ The vote for and against any question submitted to the electors must be entered in the same manner.

2. The tally lists must show the number of votes, other than absentee votes and votes in a mailing precinct, which each candidate received in each precinct at:

- (a) A primary election held in an even-numbered year; or
- (b) A general election.

Sec. 8. ~~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. If a county establishes a system for online voter registration pursuant to subsection 1, online voter registration must remain open until midnight on the day before early voting begins. (Deleted by amendment.)~~

Sec. 9. NRS 293.560 is hereby amended to read as follows:

293.560 ~~{-}~~ Except as otherwise provided in NRS 293.502 ~~{-~~ registration must close at 9 p.m. on the third Tuesday preceding any primary or general election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary or general election, registration must close at 9 p.m. on the third Tuesday preceding the day of the elections.

— 2. ~~The~~ :

1. *For a primary or special election, the office of the county clerk must be open {from 9 a.m. to 5 p.m. and from} until 7 p.m. {to 9 p.m., including Saturdays,} during the last 2 days {before the close of} on which registration {, according to the following schedule:*

— (a) *is open.* In a county whose population is less than 100,000, the office of the county clerk ~~{must be open during the last day before registration closes.~~

— (b) ~~In all other counties, the office of the county clerk must be open during the last 5 days before registration closes.}~~ *may close at 5 p.m. during the last 2 days before registration closes if approved by the board of county commissioners.*

2. *For a general election:*

(a) *In a county whose population is less than 100,000, the office of the county clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the county clerk may close at 5 p.m. if approved by the board of county commissioners.*

(b) *In a county whose population is 100,000 or more, the office of the county clerk must be open during the last 4 days on which registration is open, according to the following schedule:*

(1) *On weekdays until 9 p.m.; and*

(2) *A minimum of 8 hours on Saturdays, Sundays and legal holidays.*

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The county clerk of each county shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the county indicating:

(1) The day *and time* that registration will be closed; and

(2) If the county clerk has designated a county facility pursuant to NRS 293.5035, the location of that facility.

➤ If no such newspaper is published in the county, the publication may be made in a newspaper of general circulation published in the nearest county in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. The offices of the county clerk, a county facility designated pursuant to NRS 293.5035 and other ex officio registrars may remain open on the last Friday in October in each even-numbered year.

5. For the period beginning on the fifth Sunday preceding any primary or general election and ending on the third Tuesday preceding any primary or general election, an elector may register to vote only by appearing in person at the office of the county clerk or, if open, a county facility designated pursuant to NRS 293.5035.

6. A county facility designated pursuant to NRS 293.5035 may be open during the periods described in this section for such hours of operation as the county clerk may determine, as set forth in subsection 3 of NRS 293.5035.

Sec. 10. NRS 293C.305 is hereby amended to read as follows:

293C.305 1. The city clerk shall prepare an absent ballot for the use of registered voters who have requested absent ballots. The city clerk shall make reasonable accommodations for the use of the absent ballot by a person who is elderly or disabled, including, without limitation, by providing, upon request, the absent ballot in 12-point type to a person who is elderly or disabled.

2. The ballot must be prepared and ready for distribution to a registered voter who :

(a) Except as otherwise provided in paragraph (b), resides within or outside this State, not later than 20 days before the election in which it will be used.

(b) Requested an absent ballot pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq., not later than 45 days before the election.

3. Any legal action that would prevent the ballot from being issued pursuant to subsection 2 is moot and of no effect.

Sec. 11. NRS 293C.310 is hereby amended to read as follows:

293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a registered voter who provides sufficient written notice to the city clerk may vote an absent ballot as provided in this chapter.

2. A city clerk shall consider a request from a voter who has given sufficient written notice on a form provided by the Federal Government as:

(a) A request for the primary city election and the general city election unless otherwise specified in the request; and

(b) A request for an absent ballot for the ~~two~~ primary and general elections immediately following the date on which the city clerk received the request.

3. It is unlawful for a person fraudulently to request an absent ballot in the name of another person or to induce or coerce another person fraudulently to request an absent ballot in the name of another person. A person who violates any provision of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

4. As used in this section, "sufficient written notice" means a:

(a) Written request for an absent ballot that is signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine;

(b) Form prescribed by the Secretary of State that is completed and signed by the registered voter and returned to the city clerk in person or by mail or facsimile machine; or

(c) Form provided by the Federal Government.

Sec. 12. NRS 293C.372 is hereby amended to read as follows:

293C.372 When all the votes have been counted, the counting board officers shall enter on the tally lists by the name of each candidate the number of votes the candidate received. ~~{The number must be expressed in words and figures.}~~ The vote for and against any question submitted to the electors must be entered in the same manner.

Sec. 13. NRS 293C.527 is hereby amended to read as follows:

293C.527 ~~{1.}~~ Except as otherwise provided in NRS 293.502 ~~{, registration must close at 9 p.m. on the third Tuesday preceding any primary city election or general city election and at 9 p.m. on the third Saturday preceding any recall or special election, except that if a recall or special election is held on the same day as a primary city election or general city election, registration must close at 9 p.m. on the third Tuesday preceding the day of the elections.}~~

~~— 2. — The} :~~

1. For a primary city election or special city election, the office of the city clerk must be open ~~{from 9 a.m. to 5 p.m. and from}~~ **until 7 p.m. {to 9 p.m., including Saturdays,}** during the last 2 days ~~{before the close of registration before a primary city election or general city election, according to the following schedule:~~

~~— (a) In a city whose population is less than 25,000, the office of the city clerk must be open during the last 3 days before registration closes.~~

~~— (b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 5 days before registration closes.}~~ **on which registration is open. In a city whose population is less than 25,000, the office of the city clerk may close at 5 p.m. if approved by the governing body of the city.**

2. For a general election:

(a) In a city whose population is less than 25,000, the office of the city clerk must be open until 7 p.m. during the last 2 days on which registration is open. The office of the city clerk may close at 5 p.m. if approved by the governing body of the city.

(b) In a city whose population is 25,000 or more, the office of the city clerk must be open during the last 4 days on which registration is open, according to the following schedule:

(1) On weekdays until 9 p.m.; and

(2) A minimum of 8 hours on Saturdays, Sundays and legal holidays.

3. Except for a special election held pursuant to chapter 306 or 350 of NRS:

(a) The city clerk of each city shall cause a notice signed by him or her to be published in a newspaper having a general circulation in the city indicating:

(1) The day *and time* that registration will be closed; and

(2) If the city clerk has designated a municipal facility pursuant to NRS 293C.520, the location of that facility.

➤ If no newspaper is of general circulation in that city, the publication may be made in a newspaper of general circulation in the nearest city in this State.

(b) The notice must be published once each week for 4 consecutive weeks next preceding the close of registration for any election.

4. For the period beginning on the fifth Sunday preceding any primary city election or general city election and ending on the third Tuesday preceding any primary city election or general city election, an elector may register to vote only by appearing in person at the office of the city clerk or, if open, a municipal facility designated pursuant to NRS 293C.520.

5. A municipal facility designated pursuant to NRS 293C.520 may be open during the periods described in this section for such hours of operation as the city clerk may determine, as set forth in subsection 3 of NRS 293C.520.

Sec. 14. NRS 295.061 is hereby amended to read as follows:

295.061 1. Except as otherwise provided in subsection 3, whether an initiative or referendum embraces but one subject and matters necessarily connected therewith and pertaining thereto, and the description of the effect of an initiative or referendum required pursuant to NRS 295.009, may be challenged by filing a complaint in the First Judicial District Court not later than 15 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is placed on file with the Secretary of State pursuant to NRS 295.015. 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 15 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.

2. The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint in district court not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. 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 15 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.

3. If a description of the effect of an initiative or referendum required pursuant to NRS 295.009 is challenged successfully pursuant to subsection 1 and such description is amended in compliance with the order of the court, the amended description may not be challenged.

Sec. 15. NRS 349.017 is hereby amended to read as follows:

349.017 1. If the bond question is submitted at a general election, no notice of registration of electors is required other than that required by the laws for a general election.

2. If the bond question is submitted at a special election, the clerk of each county shall cause to be published, at least once a week for 2 consecutive weeks by two weekly insertions a week apart, the first publication to be not more than 50 days nor less than 42 days next preceding the election, in a newspaper published within the county, if any is so published, and having a general circulation therein, a notice signed by him or her to the effect that registration for the special election will be closed on a date *and time* designated therein, as provided in this section.

3. Except as otherwise provided in subsection 4, the office of the county clerk in each county of this State must be open for such a special election, from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on Mondays through Fridays, with Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector.

4. The office of the county clerk must be open ~~{from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m. on Monday through Saturday, with Sundays and any legal holidays excepted.}~~ during the last days of registration as provided in subsection ~~{2}~~ 1 of NRS 293.560.

5. The office of the county clerk must be open for registration of voters for such a special election up to but excluding the 30th day next preceding that election and during regular office hours.

Sec. 16. NRS 710.153 is hereby amended to read as follows:

710.153 1. If the question of the sale or lease of the county-owned telephone system is submitted at a general election, no notice of registration of electors is required other than that required by the general election laws for such election. If the question is submitted at a special election, the county clerk shall cause to be published at least once a week for 5 consecutive weeks by five weekly insertions a week apart, the first publication to be not more than 60 days nor less than 45 days next preceding the election, in a newspaper published within the county and having a general circulation therein, a notice signed by the county clerk to the effect that registration for the special election will be closed on a date *and time* designated therein, as provided in this section.

2. Except as otherwise provided in this subsection, the office of the county clerk must be open for such a special election from 9 a.m. to 12 m. and from 1 p.m. to 5 p.m. on Mondays through Fridays, with Saturdays, Sundays and legal holidays excepted, for the registration of any qualified elector. ~~{During the 5 days preceding the close of registration before such a special election, the}~~ *The* office of the county clerk must be open ~~{from 9 a.m. to 5 p.m. and from 7 p.m. to 9 p.m. on Monday through Saturday, with Sunday and any legal holidays excepted.}~~ *during the last days of registration as provided in subsection 1 of NRS 293.560.*

3. The office of the county clerk must be opened for registration of voters for the special election from and including the 20th day next preceding the election and up to but excluding the 10th day next preceding the election and during regular office hours.

Sec. 17. Section 8 of the Virgin Valley Water District Act, being chapter 100, Statutes of Nevada 1993, at page 165, is hereby amended to read as follows:

Sec. 8. District Elections.

1. Unless otherwise required for purposes of an election to incur an indebtedness, the Registrar of Voters of Clark County shall conduct, supervise and, by ordinance, regulate all district elections in accordance, as nearly as practicable, with the general election laws of this state, including, but not limited to, laws relating to the time of opening and closing of polls, the manner of conducting the election, the canvassing, announcement and certification of results and the preparation and disposition of ballots.

2. ~~{At least 90 days before the election, the Registrar of Voters of Clark County shall publish notice of the election.}~~ Each candidate for election to the Board must file a declaration of candidacy with the Registrar of Voters ~~{at least 60 days before the election.}~~ ***not earlier than the first Monday in March of the year in which the election is to be held and not later than 5 p.m. on the second Friday after the first Monday in March.*** Timely filing of such declaration is a prerequisite to election.

3. If the board establishes various election areas within the District and there are two or more seats upon the board to be filled at the same election, each of which represents the same election area, the two candidates therefor receiving the highest number of votes, respectively, are elected.

4. If a member of the Board is unopposed in seeking reelection, the Board may declare that member elected without a formal election, but that member may not participate in the declaration.

5. If no person files candidacy for election to a particular seat upon the Board, the seat must be filled in the manner provided in subsection 4 of section 7 of this act for filling a vacancy.

Sec. 18. NRS 293.219 is hereby repealed.

Sec. 19. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

293.219 Recommendations by political parties of persons for service on election board.

1. Not less than 60 days before a primary or a general election, the county central committee of each major political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the primary or general election in the precinct or district.

2. Not less than 60 days before a general election, the executive committee of each minor political party for each county may recommend to the county clerk of the county three registered voters for each precinct in the county to act as election board officers of the general election in the precinct or district.

3. After that date the county clerk may accept recommendations for reserve election board officers for the election.

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. 473 relates to elections. Amendment No. 691 deletes the provisions that require a county election official who maintains an online voter registration system to remain open until midnight on the day before early voting begins; and establishes an effective date upon passage and approval of the bill.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Assembly Bills Nos. 53, 78, 80, 258, 549, be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Wiener moved that Assembly Bill No. 508 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Horsford moved for this legislative day, that all necessary rules be suspended, and that all bills and joint resolutions returned from reprint, be declared emergency measures under the Constitution and immediately placed on third reading and final passage, time permitting.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 60.

Bill read third time.

Roll call on Senate Bill No. 60:

YEAS—21.

NAYS—None.

Senate Bill No. 60 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 421

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 421 be taken from the General File and placed on the next legislative agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 426.

Bill read third time.

Roll call on Senate Bill No. 426:

YEAS—21.

NAYS—None.

Senate Bill No. 426 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 437.

Bill read third time.

Roll call on Senate Bill No. 437:

YEAS—21.

NAYS—None.

Senate Bill No. 437 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 440.

Bill read third time.

Roll call on Senate Bill No. 440:

YEAS—21.

NAYS—None.

Senate Bill No. 440 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 443.

Bill read third time.

Roll call on Senate Bill No. 443:

YEAS—21.

NAYS—None.

Senate Bill No. 443 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 446.

Bill read third time.

Roll call on Senate Bill No. 446:

YEAS—21.

NAYS—None.

Senate Bill No. 446 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 2.

Bill read third time.

Roll call on Assembly Bill No. 2:

YEAS—21.

NAYS—None.

Assembly Bill No. 2 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 81.

Bill read third time.

Roll call on Assembly Bill No. 81:

YEAS—11.

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

Assembly Bill No. 81 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 117.

Bill read third time.

Roll call on Assembly Bill No. 117:

YEAS—21.

NAYS—None.

Assembly Bill No. 117 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 136.

Bill read third time.

Remarks by Senators Roberson, Copenig, Wiener, Brower, Parks, Gustavson and Schneider.

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

SENATOR ROBERSON:

Thank you, Mr. President. We heard this bill in Senate Judiciary. I think everyone needs to know that this bill guts truth in sentencing in this State. It frees felons early. If you are okay with that, then vote "yes." I am voting "no."

SENATOR COPENING:

Assembly Bill No. 136 allows credits earned by a category B felony offender for educational achievement and good behavior to apply to the offender's eligibility for parole, unless the offender was convicted as a habitual criminal, of a crime involving the use of force or violence, of felony driving under the influence, or of a sexual offense.

Additionally, the credits do not apply to the offender's eligibility for parole if the offender has served three or more separate terms of imprisonment for three separate felony convictions in Nevada, is serving a sentence for which an additional penalty was imposed for use of a firearm, and is serving a sentence for being a felon in possession of a firearm. The bill requires the credits to be deducted from the minimum term, until the offender becomes eligible for parole, and from the maximum term.

This measure is effective on January 1, 2012, and applies retroactively to January 1, 2005, to reduce the minimum term of an offender in custody on the effective date, and to January 1, 2011, to reduce the maximum term of an offender placed on parole before the effective date.

SENATOR WIENER:

Thank you, Mr. President.

Since the truth in sentencing provision was passed in 1995, and particularly since the passage of Assembly Bill No. 510 of the 74th Legislative Session, the Legislature has taken positions to address the provision and to change the laws about truth in sentencing. Those were legislative decisions made during different legislative sessions.

For clarification, the credits allow the inmate earlier access to a Parole Board hearing. This does not, in any way, assure that the person would be paroled.

There are several exceptions to anyone who would even be eligible. If a firearm was used in the offense, they would not be eligible. If the inmate has been convicted three times, though not an habitual offender, he or she would be ineligible.

Several people testified and collaborated on the amendment we, as a Senate body, supported yesterday.

SENATOR ROBERSON:

My concern with this is bill is that, today in this State, the public does not know, the victims do not know, how long a felon is going to serve in prison based on the minimum sentence that a judge assigns to them. Because of so many credits given on the front end, someone could be sentenced to a punishment for three to ten years. We do not know, and in many cases, we learn later that the felon will not serve the minimum of three years.

After the hearing in Senate Judiciary, I had a retired judge approach me. He was furious about this bill. He told me that right now judges do not know, when they sentence criminals, what Parole and Probation is going to do as far as giving credits. They cannot be certain that when they sentence a felon to prison that the prisoner will serve the minimum assigned sentence. This bill exacerbates the problem. For the first time in a long time, this bill allows good time credits and other credits to be taken off the minimum sentence for a felon. This is bad policy. I ask you to oppose this bill.

SENATOR BROWER:

Thank you, Mr. President. I rise in opposition to this bill. My colleague from Clark District No. 5 is correct. This is not a step in the right direction with respect to truth in sentencing in our State. We do not have much truth in sentencing currently. There is not time enough left in the Session to address that issue. I hope that future Legislatures will. Compared to the federal system where when a judge sentences an offender, everyone, the offender, the victim, knows exactly how much time that person is going to do, or not do. The judge can sentence to probation. Everyone knows after sentencing exactly what the sentence will be.

In our State system, it is a mystery. I would encourage a future Legislature to work on making it more clear. This bill takes us back a step or two and makes it less clear. I urge your opposition.

SENATOR PARKS:

I rise in support of Assembly Bill No. 136. We do have a significant budget crisis. Nevada is a State that spends far more dollars on incarceration than most other states. We are at the top of the list, per capita.

On average, inmates in Nevada serve much longer sentences than inmates in other states. My colleague from southern Nevada stated that Assembly Bill No. 510 was passed in 2007. The experience we have found from that, in budget savings and in that the program has worked well, which underlies the argument for passage of Assembly Bill No. 136. I encourage your support.

SENATOR GUSTAVSON:

I rise in opposition to Assembly Bill No. 136. We are in a financial crisis in this State, it costs the State more money, but what about the citizens? Many of these offenders, when released, reoffend. We all know that. The recidivism rate is too high. We are working on getting that down. To let these people out sooner to commit crimes again, is wrong. It is going to hurt the citizens. It is going to cost tax payers more money in the long run. They will go back into the court system again, hire attorneys and it is bad policy to let these people out early. I urge you to vote against this bill.

SENATOR SCHNEIDER:

Thank you, Mr. President. I stand in support of this. I support my colleague from District No. 7. I was here in this house when Senator James chaired Judiciary. We systematically enhanced every crime in this State. We were tough on crime. The Senator from District No. 7 pointed that out. We have a higher incarceration rate, a longer time, than any other state. We have put ourselves in a jackpot. Now, we are paying for that and we are paying dearly. I stand in support of this.

Roll call on Assembly Bill No. 136:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, Lee, McGinness, Rhoads, Roberson, Settelmeyer—11.

Assembly Bill No. 136 having failed to receive a constitutional majority, Mr. President declared it lost.

Assembly Bill No. 152.

Bill read third time.

Roll call on Assembly Bill No. 152:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Assembly Bill No. 152 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 199.

Bill read third time.

Remarks by Senators Hardy, Schneider and Kieckhefer.

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

SENATOR HARDY:

Thank you, Mr. President. The summary to this bill is interesting in that it talked about the practice of pharmacy, but it is really an issue of a scope of practice. This practice of medicine is a collaborative practice. This bill would allow a pharmacist to implement and modify drug therapy. It seems as if this bill is asking the pharmacist to become a physician assistant or a nurse practitioner. That person may not have the clinical, albeit, the scientific training in pharmacology. I have nothing against pharmacists, but the physician, physician assistant and the nurse practitioner have reached a certain level of expertise.

Initials are important. I saw M.D. on the side of a used ambulance that had been converted into a plumbing truck. That is how I see the "Rx" usage. This is what we use for a symbol for a treatment or a prescription. I have issues with the bill and will not be supporting it.

SENATOR SCHNEIDER:

A person operating a business that is not required to be licensed by the Board may use the letters "Rx" with the Board's approval. The Board must not unreasonably deny approval but approval may be withheld if the use of the letters is confusing or misleading or threatens public health or safety.

A plumbing truck with "Rx" on the side is not confusing to the public. The Rehab Lounge with "Rx" at the Hard Rock is not confusing to the public. I do not think RxRealty is confusing to the public. I am not going to go there to get a prescription filled. The Board will make their own rules. That is why the effective date of this October 1, 2011. They have time to put together their rules on this. The Pharmacy Board is in full support of this bill and the amendment.

SENATOR KIECKHEFER:

Thank you, Mr. President. Was there a discussion in Committee as to whether the change that will allow a pharmacist to modify a drug therapy will anyway change their insurance requirements? Will they have to start to carry medical malpractice insurance or is it any different from what they are carrying now. What are the implications?

SENATOR SCHNEIDER:

Thank you, Mr. President. There was no discussion about malpractice insurance. I know that people often go to multiple doctors. The intent of this bill is that the pharmacist could make or suggest changes. In other countries, Mexico, for instance, the doctors give the patient written directions and the pharmacist decides what medication to give the patient. We rely heavily on pharmacists. We are trying to have the pharmacist more involved than just giving a patient 30 pills and sending you home. He can check to make certain that all the medications you are on are not conflicting.

Roll call on Assembly Bill No. 199:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Assembly Bill No. 199 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Manendo moved that Assembly Bill No. 204 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. 212.

Bill read third time.

Roll call on Assembly Bill No. 212:

YEAS—21.

NAYS—None.

Assembly Bill No. 212 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 232.

Bill read third time.

Roll call on Assembly Bill No. 232:

YEAS—21.

NAYS—None.

Assembly Bill No. 232 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 240.

Bill read third time.

Roll call on Assembly Bill No. 240:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Settelmeyer—9.

Assembly Bill No. 240 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 242.

Bill read third time.

Roll call on Assembly Bill No. 242:

YEAS—21.

NAYS—None.

Assembly Bill No. 242 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 257.

Bill read third time.

Roll call on Assembly Bill No. 257:

YEAS—21.

NAYS—None.

Assembly Bill No. 257 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 265.

Bill read third time.

Roll call on Assembly Bill No. 265:

YEAS—11.

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

Assembly Bill No. 265 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 273.

Bill read third time.

The following amendment was proposed by Senators Wiener and Roberson:

Amendment No. 824.

"SUMMARY—Revises provisions ~~governing deficiencies existing after foreclosure sales and sales in lieu of foreclosure sales.~~ **relating to real property.** (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; **revising provisions governing mortgages and deeds of trust;** 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 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: (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.

Section 6 of Assembly Bill No. 284 of this session requires the trustee under a deed of trust to be: (1) an attorney licensed in this State; (2) a title insurer or title agent authorized to do business in this State; or (3) a person licensed as a trust company or exempt from the requirement to be licensed as a trust company. Section 5.8 of this bill amends section 6 of Assembly Bill No. 284 of this session: (1) to authorize any foreign or domestic entity which holds a current state business license to be the trustee under a deed of trust; and (2) to specifically describe certain persons who are exempt from the requirement to obtain a license as a trust company and who are authorized to be the trustee under a deed of trust. Sections 5.9 and 5.95 of this bill change the effective date of Assembly Bill No. 284 of this session from July 1, 2011, to October 1, 2011.

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:

~~1-1~~ **(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; ~~1-2~~

~~2-1~~ **(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 ~~1-1~~ ; ~~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 ~~14-1~~ **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:*

(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 awards a money judgment against the debtor, guarantor or surety who is personally liable for the debt, 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. 5.8. Section 6 of Assembly Bill No. 284 of this session is hereby amended to read as follows:

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The trustee under a deed of trust must be:

(a) An attorney licensed to practice law in this State;

(b) A title insurer or title agent authorized to do business in this State pursuant to chapter 692A of NRS; ~~for~~

(c) A person licensed pursuant to chapter 669 of NRS ~~for a person exempt from the provisions of chapter 669 of NRS pursuant to paragraph (a) or (h) of subsection 1 of NRS 669.080.~~

(d) A domestic or foreign entity which holds a current state business license issued by the Secretary of State pursuant to chapter 76 of NRS;

(e) A person who does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies;

(f) A person who is appointed as a fiduciary pursuant to NRS 662.245;

(g) A person who acts as a registered agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(h) A person who acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he or she is not regularly engaged in the business of acting as a trustee for such trusts;

(i) A person who engages in the business of a collection agency pursuant to chapter 649 of NRS; or

(j) A person who engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS.

2. A trustee under a deed of trust must not be the beneficiary of the deed of trust for the purposes of exercising the power of sale pursuant to NRS 107.080.

3. A trustee under a deed of trust must not:

(a) Lend its name or its corporate capacity to any person who is not qualified to be the trustee under a deed of trust pursuant to subsection 1.

(b) Act individually or in concert with any other person to circumvent the requirements of subsection 1.

4. A beneficiary of record may replace its trustee with another trustee. The appointment of a new trustee is not effective until the substitution of trustee is recorded in the office of the recorder of the county in which the real property is located.

5. The trustee does not have a fiduciary obligation to the grantor or any other person having an interest in the property which is subject to the deed of trust. The trustee shall act impartially and in good faith with respect to the deed of trust and shall act in accordance with the laws of this State. A rebuttable presumption that a trustee has acted impartially and in good faith exists if the trustee acts in compliance with the provisions of NRS 107.080. In performing acts required by NRS 107.080, the trustee incurs no liability for any good faith error resulting from reliance on information provided by the beneficiary regarding the nature and the amount of the default under the obligation secured by the deed of trust if the trustee corrects the good faith error not later than 20 days after discovering the error.

6. If, in an action brought by a grantor, a person who holds title of record or a beneficiary in the district court in and for the county in which the real property is located, the court finds that the trustee did not comply with this section, any other provision of this chapter or any applicable provision of chapter 106 or 205 of NRS, the court must award to the grantor, the person who holds title of record or the beneficiary:

(a) Damages of \$5,000 or treble the amount of actual damages, whichever is greater;

(b) An injunction enjoining the exercise of the power of sale until the beneficiary, the successor in interest of the beneficiary or the trustee complies with the requirements of subsections 2, 3 and 4; and

(c) Reasonable attorney's fees and costs,

↪ unless the court finds good cause for a different award.

Sec. 5.9. Section 14.5 of Assembly Bill No. 284 of this session is hereby amended to read as follows:

Sec. 14.5. The amendatory provisions of:

1. Section 1 of this act apply only to an assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded before March 27, 1935, and any assignment of the beneficial interest under a deed of trust, which is made on or after ~~July~~ **October** 1, 2011.

2. Section 2 of this act apply only to an instrument by which any mortgage or deed of trust of, lien upon or interest in real property is subordinated or waived as to priority which is made on or after ~~July~~ **October** 1, 2011.

3. Section 5 of this act apply only to an instrument encumbering a borrower's real property to secure future advances from a lender within a mutually agreed maximum amount of principal, or an amendment to such an instrument, which is made on or after ~~July~~ **October** 1, 2011.

4. Section 9 of this act apply only to a notice of default and election to sell which is recorded pursuant to NRS 107.080, as amended by section 9 of this act, on or after ~~July~~ **October** 1, 2011.

Sec. 5.95. Section 15 of Assembly Bill No. 284 of this session is hereby amended to read as follows:

Sec. 15. This act becomes effective on ~~July~~ **October** 1, 2011.

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 **5.8 to 6, inclusive**, of this act 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, Schneider and Roberson.

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

SENATOR WIENER:

This amendment revises Section 6 of Assembly Bill No. 284 that requires the trustee under a deed of trust to be an attorney licensed in Nevada, a title insurer or title agent authorized to do business in Nevada, or person licensed as a trust company or otherwise exempt from the requirement to be a licensed trust company in this State.

Amendment No. 824 expands those provisions in Assembly Bill No. 284 so that a trustee under a deed of trust may be a domestic or foreign entity which holds a current state business license or certain persons who are exempt from having to obtain a license as a trust company but are authorized to be a trustee under a deed of trust. They include a person who does business relating to banks, savings and loan associations, or thrift companies, a person appointed as fiduciary, a trustee of a trust that is holding real property for the purpose of facilitation real estate transaction or a registered agent, collection agency or escrow agency.

Lastly, the amendment revises the effective date of Assembly Bill No. 284 from July 1, 2011 to October 1, 2011.

SENATOR SCHNEIDER:

Could someone explain this amendment and its intent more than the floor statement?

SENATOR ROBERSON:

Thank you, Mr. President. The purpose of this amendment is to clean up some things that were missed on Assembly Bill No. 284 which passed this house and has been signed by the Governor.

In Section 5.8 of the amendment, it revises Section 6 of Assembly Bill No. 284. It clarifies who can act as a trustee under a deed of trust for a residential property. There was a concern that there were certain small, family owned businesses in this State that would have been put out of business by Assembly Bill No. 284. We want to make certain this does not happen. This clarifies Assembly Bill No. 284 so we do not put businesses out of business.

Amendment adopted.

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

Assembly Bill No. 277.

Bill read third time.

Roll call on Assembly Bill No. 277:

YEAS—21.

NAYS—None.

Assembly Bill No. 277 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 291.

Bill read third time.

Remarks by Senators Wiener, Brower and Roberson.

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

SENATOR WIENER:

Assembly Bill No. 291 relates to an agreement between an heir finder and an apparent heir regarding the recovery of property in an estate for which the public administrator has petitioned for letters of administration. The bill provides that such an agreement is void and unenforceable if it was entered into during the period beginning with the death of the person whose estate is in probate and ending 90 days after the filing of a petition for letters of administration.

We had an amendment on this bill that took it from 180 days. There was a lot of negotiation. We felt the appropriate compromise was 90 days.

SENATOR BROWER:

Could the Chair of the Committee explain the reason behind the statutory delay of 90 days?

SENATOR WIENER:

Up to this point, there has been no timeline assigned to this kind of transaction. One of the concerns of the public administrators during testimony was their desire to have an appropriate amount of time to find heirs. In terms of public policy, this allows the public administrators the opportunity to do the necessary search. The bill started with a 180 day timeline. With the sponsor's approval, 90 days was deemed an appropriate compromise.

SENATOR BROWER:

Are the public administrators of the State in support of this bill?

SENATOR WIENER:

They wanted the 180 days, but they compromised with 90 days.

SENATOR ROBERSON:

Thank you, Mr. President.

This was a four to three vote in the Committee. Three of us felt 90 days was far too long. It should have been 30 days. That is why we voted "no" and why I will continue to vote "no."

Roll call on Assembly Bill No. 291:

YEAS—11.

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

Assembly Bill No. 291 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 294.

Bill read third time.

Remarks by Senators Wiener and Kieckhefer.

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

SENATOR WIENER:

Assembly Bill No. 294 authorizes mobile gaming to be conducted in any area of an establishment that holds a non-restricted gaming license and operates at least 100 slot machines. The bill removes the authority of the Nevada Gaming Commission to regulate independent contractors that manufacture certain property related to gaming. It also makes it unlawful for a person to knowingly distribute any gaming device, system, or related equipment from Nevada to any other jurisdiction where the use of such items is illegal. Finally, this bill clarifies that a computer system associated with mobile gaming may be located outside a licensed gaming establishment but must be located within this State.

SENATOR KIECKHEFER:

Thank you, Mr. President. Does the bill allow for gaming in private rooms of the hotel, or is it only in public areas of the gaming establishment?

SENATOR WIENER:

Current law allows mobile gaming in several public areas in a gaming establishment. This would allow it to be carried on anywhere in the footprint of the property. If you were to go across the street, it is programmed in such a way that you could not do it anywhere outside the footprint.

Years back, I had great hesitation about the mischief that could occur in rooms with underage patrons. Technology has moved forward substantially since that original bill passed. I feel comfortable that those safeguards are built in, even during the time of playing the game. Electronic safeguards will allow those who own the mobile gaming devices to check at any time to see if the appropriate person is using the device. This bill expands current law to allow use of the mobile device anywhere on the property including rooms.

Roll call on Assembly Bill No. 294:

YEAS—21.

NAYS—None.

Assembly Bill No. 294 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 301.

Bill read third time.

Remarks by Senators Parks, Hardy, Brower, Settlemeyer and Leslie.

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

SENATOR PARKS:

Assembly Bill No. 301 removes all exceptions to the restoration of the right to vote for a person who has been convicted of a felony if the person has completed his or her prison sentence and has been released from prison; the person received an honorable discharge from parole or probation; the person's records have been sealed by a court; or the person was granted a pardon.

The bill also prohibits a county clerk from requiring a person seeking to register to vote to provide documentation indicating that the person's right to vote has been restored, and provides an appeal process for a person whose voter registration application has been denied or whose voter registration has been cancelled on the grounds that the person has been convicted of a felony or has not had his or her right to vote restored. Further, the bill revises procedures for a clerk, district attorney, or court to follow upon receipt of a challenge providing that a person is not eligible to vote because the person has been convicted of a felony and has not had his or her right to vote restored.

The bill restores the civil right to vote to any person who was honorably discharged from probation or parole, was granted a pardon with restoration of the right to vote, or had completed a sentence prior to July 1, 2011. The bill does not require that notification be given to these persons of the restoration of their civil right to vote.

SENATOR HARDY:

Thank you, Mr. President. I rise in support of Assembly Bill No. 301. I appreciate the ACLU representative who worked with me on this.

In 2003, I worked with Assemblywoman Giunchigliani extending the rights to vote for former felons. I decided I did not want to have class A felons restored their right to vote. I appreciated the ability and the opportunity for Ms. Gasca to help me understand some of this and appreciate her working through this with me.

I sought guidance in scriptural references such as, Peter, when he said things are unclean. What the Lord told him was, "that which I have cleansed, call thee not common." I remembered about forgiving all men and the sacred right of voting in Exodus 24:23, and Acts 15:25, "in remembering not your sins" Hebrews 8:12, "rendering unto Caesar," I think is applicable because these people have paid their debt to society as heinous as their crime may have been. I recognize that I, being imperfect, still struggle with judging not and still judging unrighteously. I would counsel the people, who are not yet able to vote, that they look at Daniel 3:16 through 3:18 and recognize that, but if not, they still have an opportunity to do this.

SENATOR BROWER:

Thank you, Mr. President. This concept came up in the form of a bill several years ago while I was in the Assembly. My position, then, was, and still is, that those who have been convicted of felonies and who have paid their debt to society by doing prison time or by serving a term on probation, should be encouraged to, upon rejoining society, become productive citizens again, including, being voting members of the public, but they should have to apply for that restoration of that right. That right should not be difficult to obtain once again. However, they should have to apply for it. I will oppose this bill.

SENATOR HARDY:

The application that could be counted towards this could be the State of Nevada voter registration application. In box number 11, it says, "I am not laboring under any felony conviction or other loss of civil rights that it would make it unlawful for me to vote. I declare under penalty of perjury that the foregoing is true and correct." Then the person is allowed to sign the form. The person is, with the passage of this bill, affirming that he is no longer under felony conviction or loss of such civil rights. He would be applying to have the sacred privilege of voting rights.

SENATOR SETTELMAYER:

Thank you, Mr. President. We had testimony during the hearing on elections and procedures. One of the issues and concerns that I had was that this process is the same regardless of the level of the crime. I believe certain felonies are more egregious than others. We had a bill in this house earlier this year that created a felony for torturing a dog. However, if all felons are lumped together in the same category, even those who have done mayhem by cutting off someone's arm is treated the same as for a lesser crime. I do not think we should treat all felons the same. That is why I do not support this legislation. Also, in talking to my county clerk, it was indicated to me that the shifting of the burden of checking to the clerks to prove that individuals have already done all they can do to regain their rights, would be a costly process. For those reasons, I oppose this bill.

SENATOR PARKS:

The language in this bill is intended to be clean-up language. It is supposed to reduce confusion. It would allow county clerks to more easily perform their task. This bill takes away the challenge requirement that a county clerk or registrar would have. It provides for the process to be more streamlined, including the creation of several new forms. This is going to be a much simpler process for everyone to follow.

SENATOR LESLIE:

I want to concur with my colleague from southern Nevada. I had a constituent I was trying to assist with the process after we passed a previous bill in this body. It is extremely complicated. This bill sets out a much better process. There is an issue of basic fairness. After someone has paid their debt to society, they should be entitled to have their voting rights restored. I urge passage of this measure.

Roll call on Assembly Bill No. 301:

YEAS—13.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Roberson, Settelmeyer—8.

Assembly Bill No. 301 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 322.

Bill read third time.

Remarks by Senators Manendo and Lee.

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

SENATOR MANENDO:

Assembly Bill No. 322 revises the qualifications for the member of the Board of Wildlife Commissioners who is appointed based on conservation involvement. The measure also gives the Governor greater discretion in appointing the Director of the Department of Wildlife by removing a requirement that the Governor choose from nominees provided by the Board of Wildlife Commissioners.

I would like to mention my thoughts on one of the members of the Commission. There is a gentleman who currently serves on the Commission who feels he has been the target of this particular piece of legislation. We all know him to be a gentleman, a caring, loving Nevadan and I hope there will be a place for him whether in this role or in another role in the near future on the Commission. I know he cares passionately about our State.

I urge adoption of this bill.

SENATOR LEE:

As to the gentleman sitting on the Board now, it would be wise, not to start the practice of tearing people away from their responsibilities until their terms have ended. I am certain this bill will pass. It is a good piece of legislation. I would like to ask that we could continue on with this Board until the next term limits take place.

Roll call on Assembly Bill No. 322:

YEAS—20.

NAYS—Rhoads.

Assembly Bill No. 322 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 328.

Bill read third time.

Roll call on Assembly Bill No. 328:

YEAS—21.

NAYS—None.

Assembly Bill No. 328 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 337.

Bill read third time.

Roll call on Assembly Bill No. 337:

YEAS—11.

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

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

Bill ordered transmitted to the Assembly.

Assembly Bill No. 360.

Bill read third time.

Roll call on Assembly Bill No. 360:

YEAS—21.

NAYS—None.

Assembly Bill No. 360 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 374.

Bill read third time.

Roll call on Assembly Bill No. 374:

YEAS—20.

NAYS—Halseth.

Assembly Bill No. 374 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 376.

Bill read third time.

Roll call on Assembly Bill No. 376:

YEAS—21.

NAYS—None.

Assembly Bill No. 376 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 379.

Bill read third time.

Roll call on Assembly Bill No. 379:

YEAS—21.

NAYS—None.

Assembly Bill No. 379 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 384.

Bill read third time.

Roll call on Assembly Bill No. 384:

YEAS—16.

NAYS—Breedon, Gustavson, Halseth, Manendo, Settlemeyer—5.

Assembly Bill No. 384 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 388.

Bill read third time.

Remarks by Senator Roberson.

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

Assembly Bill No. 388 makes specific changes to the notice of default sent to the grantor or the person who holds the title of record in a foreclosure sale. The notice must include a statement that the grantor has a right to seek foreclosure mediation, and it must include appropriate contact information for the Foreclosure Mediation Program and the Division of Mortgage Lending in the Department of Business and Industry.

Roll call on Assembly Bill No. 388:

YEAS—21.

NAYS—None.

Assembly Bill No. 388 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 413.

Bill read third time.

Roll call on Assembly Bill No. 413:

YEAS—21.

NAYS—None.

Assembly Bill No. 413 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 433.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 433 makes it unlawful for public employers and labor organizations to make rules and regulations that prohibit or prevent an employee from engaging in politics or becoming a candidate for public office. The measure also makes it unlawful for private employers, public employers, and labor organizations to take any adverse employment action against an employee as a result of the employee becoming a candidate for public office. An exception is provided for public employees with respect to meeting federal law requirements.

Roll call on Assembly Bill No. 433:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Roberson, Settelmeyer—9.

Assembly Bill No. 433 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 463.

Bill read third time.

Roll call on Assembly Bill No. 463:

YEAS—21.

NAYS—None.

Assembly Bill No. 463 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 504.

Bill read third time.

Roll call on Assembly Bill No. 504:

YEAS—21.

NAYS—None.

Assembly Bill No. 504 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Joint Resolution No. 5.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 5:

YEAS—21.

NAYS—None.

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

Resolution ordered transmitted to the Assembly.

Assembly Joint Resolution No. 6.

Resolution read third time.

Roll call on Assembly Joint Resolution No. 6:

YEAS—21.

NAYS—None.

Assembly Joint Resolution No. 6 having received a constitutional majority, Mr. President declared it passed.

Resolution ordered transmitted to the Assembly.

UNFINISHED BUSINESS
APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Leslie, Kihuen and Kieckhefer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Senate Bill No. 264.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bills Nos. 259, 292, 323, 414, be taken from Unfinished Business and placed on Unfinished Business on the next agenda.

Motion carried.

Senator Horsford moved that the Senate recess until 6 p.m.
Motion carried.

Senate in recess at 1:57 p.m.

SENATE IN SESSION

At 6:37 p.m.
President Krolicki presiding.
Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bills Nos. 358, 390, 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 were referred Assembly Bills Nos. 489, 528, 530, 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. 164, 168, 276, 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*

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. 89, 96, 111, 134, 225, 322, 337.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 29, 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. 59, 142, 436

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 300, 525.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 99, Amendment No. 723; Senate Bill No. 101, Amendment No. 659; Senate Bill No. 125, Amendment No. 760; Senate Bill No. 136, Amendments Nos. 724, 811; Senate Bill No. 143, Amendment No. 722; Senate Bill No. 150, Amendment No. 734; Senate Bill No. 200, Amendment No. 720; Senate Bill No. 223, Amendment No. 681; Senate Bill No. 215, Amendment No. 719; Senate Bill No. 233, Amendment No. 699; Senate Bill No. 257, Amendment No. 794; Senate Bill No. 309, Amendment No. 683; Senate Bill No. 361, Amendment No. 614; Senate Bill No. 402, Amendment No. 740; Senate Bill No. 403, Amendment No. 739, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 592 to Assembly Bill No. 17; Senate Amendment No. 707 to Assembly Bill No. 122; Senate Amendment No. 692 to Assembly Bill No. 501.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Ocegüera, Horne and Goicoechea as a Conference Committee concerning Assembly Bill No. 282.

MATTHEW BAKER
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Lee moved to reconsider the vote whereby Assembly Bill No. 136 this day failed.

Remarks by Senator Lee.

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

After talking with people in the Attorney General's office, I realized that this bill does not let people out of prison early; it just gives them a chance to get to the Parole Board faster. Therefore, I would like to hear this bill on Third Reading again.

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

Senate in recess at 6:42 p.m.

SENATE IN SESSION

At 6:48 p.m.

President Krolicki presiding.

Quorum present.

Remarks by Senator Lee.

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

I want to thank the Senator from Clark District No. 5 for giving me additional information on this bill. I feel the Parole Board can handle the situation. I respect his desire that criminals pay their price.

Motion carried on a division of the house.

Senator Lee moved that Assembly Bill No. 223 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Lee moved that Assembly Bill No. 410 be taken from the Secretary's desk and placed at the bottom of the General File.

Motion carried.

Senator Wiener moved that Assembly Bill No. 528 be taken from the Second Reading File and placed on the Second Reading File on the next legislative day.

Motion carried.

Senator Wiener moved that Assembly Bills Nos. 78, 351 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Breeden moved that Assembly Bill No. 53 be taken from the General File and placed on the Secretary's desk.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 501—AN ACT relating to local improvements; authorizing the creation of an event facility district in certain counties; providing for the financing of event facilities and other local projects; and providing other matters properly relating thereto.

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

Motion carried.

Assembly Bill No. 300.

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

Motion carried.

Assembly Bill No. 525.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 358.

Bill read second time and ordered to third reading.

Assembly Bill No. 390.

Bill read second time and ordered to third reading.

Assembly Bill No. 489.

Bill read second time and ordered to third reading.

Assembly Bill No. 530.

Bill read second time and ordered to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that for this legislative day, that all necessary rules be suspended, and that all bills and joint resolutions returned from reprint, be declared emergency measures under the Constitution, and immediately place on Third Reading and final passage, time permitting.

GENERAL FILE AND THIRD READING

Senate Bill No. 164.

Bill read third time.

Roll call on Senate Bill No. 164:

YEAS—10.

NAYS—Brower, Cegavske, Gustavson, Halseth, Hardy, Kieckhefer, McGinness, Rhoads, Roberson, Schneider, Settelmeyer—11.

Senate Bill No. 164 having failed to receive a two-thirds majority, Mr. President declared it lost.

Senate Bill No. 168.

Bill read third time.

Roll call on Senate Bill No. 168:

YEAS—21.

NAYS—None.

Senate Bill No. 168 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 276.

Bill read third time.

Remarks by Senators Parks and McGinness.

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

SENATOR PARKS:

Thank you, Mr. President. Senate Bill No. 276 revises provisions governing a safe and respectful learning environment in public schools. This is a follow up-bill to a number of bills passed over the last decade including the cyber-bullying bill passed last session. This bill is modeled after the much acclaimed legislation that was passed at the beginning of this year by the state of New Jersey. I recommend everyone support this bill.

SENATOR MCGINNESS:

Thank you, Mr. President. Bullying is a problem. I support all efforts to stop that. But, again, this is another mandate to school districts. We should let the local school districts have that option. I will oppose the bill.

Roll call on Senate Bill No. 276:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—9.

Senate Bill No. 276 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 421.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 421 be moved to the General File on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 80.

Bill read third time.

The following amendment was proposed by Senator Parks:

Amendment No. 845.

"SUMMARY—Makes various changes relating to the Public Employees' Benefits Program. (BDR 23-496)"

"AN ACT relating to the Public Employees' Benefits Program; making various changes relating to the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Board of the Public Employees' Benefits Program is required to submit various reports concerning the administration and operation of the Program. (NRS 287.043, 287.04366) **Sections 3, 8 and 14** of this bill make the Executive Officer of the Program, rather than the Board, responsible for submitting such reports.

Under existing law, if a retired public officer or employee of the State or a local governmental agency, or the surviving spouse of such a retired officer or employee, who was formerly covered by health insurance provided under the Program, or under a plan offered by the local governmental employer, reinstates such insurance, the reinstated insurance excludes coverage for certain preexisting conditions during the first 12 months after such reinstatement. (NRS 287.0205, 287.0475) **Sections 4.5 and 12** of this bill eliminate the exclusion for certain preexisting conditions as called for in the Patient Protection and Affordable Care Act. (Pub. L. No. 111-148, 124 Stat. 119) **Section 12** also prohibits a public officer or employee who retired from a local governmental agency, or his or her surviving spouse, ~~for domestic partner,~~ from reinstating health insurance under the Program if the Board has adopted regulations that exclude such persons from participation in the Program because they are eligible for health coverage from a health and welfare plan or trust that arose out of certain collective bargaining agreements or under certain federal laws.

Under existing law, a state agency is required to pay to the Program a certain amount to pay a portion of the cost of coverage under the Program for each state officer or employee of that state agency who participates in the Program. State officers and employees are required to pay the remaining portion of the costs of their coverage as well as the full amount of covering their dependents under the Program. The Board is authorized to allocate the money paid by the state agency between the costs of coverage for such officers and employees and for their dependents. (NRS 287.044) **Section 9** of this bill clarifies the manner in which the Board may perform the allocation.

Existing law provides for the payment of a subsidy to cover a portion of the costs of coverage under the Program for certain retired state officers and employees. (NRS 287.046) **Section 10** of this bill clarifies that employees who are initially hired by the State on or after January 1, 2010, are not entitled to the subsidy for coverage under the Program if they retire with less than 15 years of service, which must include state service and may include local governmental service, with the exception of disabled retirees, or if they fail to maintain continuous coverage under the Program during retirement.

Section 6 of this bill clarifies the application of this provision to persons who retire from employment with local governmental agencies.

Existing law provides that if a state officer or employee or a dependent of a state officer or employee incurs medical costs that are payable under the Program, but for which a third person has the legal liability to pay, the Board is subrogated to the rights of the officer, employee or dependent and may commence, join or intervene in any legal action against the third person to enforce that legal liability. (NRS 287.0465) **Section 11** of this bill extends this provision to apply to any person who participates in the Program, including retired, as well as active, officers and employees of the State and their dependents and to active and retired officers and employees of local governments and their dependents who are covered under the Program.

Existing law provides that the surviving spouse and any surviving child of a police officer or firefighter who was killed in the line of duty are eligible to obtain or continue coverage under the Program or a benefits plan established by his or her local governmental employer under certain circumstances. The public employer of the police officer or firefighter, or the State of Nevada in the case of a volunteer firefighter, is required to pay the entire cost of the coverage for the surviving spouse for life and the entire cost of the coverage for any surviving child at least until the child reaches 18 years of age and until the child reaches 23 years of age so long as the child is a full-time student. (NRS 287.021, 287.0477) ~~{Sections 5 and 13 of this bill provide that neither the public employer nor the State is required to pay the cost of the coverage for the surviving domestic partner of such a police officer or firefighter.}~~ **Sections 5 and 13** ~~{also}~~ of this bill codify that the duration of the coverage for the surviving children of police officers and firefighters killed in the line of duty is the same as the duration of coverage for children otherwise in the public employer's health care plan.

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

Section 1. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ~~["Domestic partner" has the meaning ascribed to it NRS 122A.030.]~~ **(Deleted by amendment.)**

Sec. 3. 1. *The Executive Officer shall submit a report regarding the administration and operation of the Program to the Board and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature or, if the Legislature is not in regular session, to the Legislative Commission and the Interim Retirement and Benefits Committee of the Legislature created by NRS 218E.420. The report must include, without limitation:*

(a) An audited financial statement of the Program Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(b) An audited financial statement of the Retirees' Fund for the immediately preceding fiscal year. The statement must be prepared by an independent certified public accountant.

(c) A report of the utilization of the Program by participants during the immediately preceding plan year, segregated by benefit, administrative cost, active employees and retirees, including, without limitation, an assessment of the actuarial accuracy of reserves.

(d) Material provided generally to participants or prospective participants in connection with enrollment in the Program for the current plan year, including, without limitation:

(1) Information regarding rates and the costs for participation in the Program paid by participants on a monthly basis; and

(2) A summary of the changes in the plan design for the current plan year from the plan design for the immediately preceding plan year.

2. The Executive Officer shall submit a biennial report to the Board and the Director of the Department of Administration, and to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committee or committees of the Legislature. The report must include, without limitation:

(a) An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

(b) A biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits. The review must be conducted by an attorney who specializes in employee benefits.

Sec. 4. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in ~~subparagraph (2) of~~ paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

➤ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~{Reinstatement}~~ ***If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement*** of insurance pursuant to subsection 1 ~~{excludes}~~ ***may exclude*** claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.

5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 4.5. NRS 287.0205 is hereby amended to read as follows:

287.0205 1. A public officer or employee of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada who has retired pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, or is enrolled in a retirement program provided pursuant to NRS 286.802, or the surviving spouse of such a retired public officer or employee who is deceased, may, in any even-numbered year, reinstate any insurance, except life insurance, that, at the time of reinstatement, is provided by the last public employer of the retired public officer or employee to the active officers and employees and their dependents of that public employer:

(a) Pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; or

(b) Under the Public Employees' Benefits Program, if the last public employer of the retired officer or employee participates in the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

2. Reinstatement pursuant to paragraph (a) of subsection 1 must be requested by:

(a) Giving written notice of the intent of the public officer or employee or surviving spouse to reinstate the insurance to the last public employer of the public officer or employee not later than January 31 of an even-numbered year;

(b) Accepting the public employer's current program or plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in paragraph (b) of subsection 4 of NRS 287.023, paying any portion of the premiums or contributions of the public employer's program or plan of insurance, in the manner set forth in NRS 1A.470 or 286.615, which is due from the date of reinstatement and not paid by the public employer.

➤ The last public employer shall give the insurer notice of the reinstatement not later than March 31 of the year in which the public officer or employee or surviving spouse gives notice of the intent to reinstate the insurance.

3. Reinstatement pursuant to paragraph (b) of subsection 1 must be requested pursuant to NRS 287.0475.

4. ~~If a plan is considered grandfathered under the Patient Protection and Affordable Care Act, Public Law 111-148, reinstatement of insurance pursuant to subsection 1 may exclude claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.~~

—5. The last public employer of a retired officer or employee who reinstates insurance, except life insurance, which was provided to the retired officer or employee and the retired officer's or employee's dependents at the time of retirement pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 shall, for the purpose of establishing actuarial data to determine rates and coverage for such persons, commingle the claims experience of such persons with the claims experience of active and retired officers and employees and their dependents who participate in that group insurance, plan of benefits or medical and hospital service.

Sec. 5. NRS 287.021 is hereby amended to read as follows:

287.021 1. Except as otherwise provided in subsection 3, the surviving spouse ~~or surviving domestic partner~~ and any surviving child of a police officer or firefighter who was:

(a) Employed by a local governmental agency that had established group insurance, a plan of benefits or medical and hospital service pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025; and

(b) Killed in the line of duty,

→ may elect to accept or continue coverage under that group insurance, plan or medical and hospital service if the police officer or firefighter was a participant or would have been eligible to participate in the group insurance, plan or medical and hospital service on the date of the death of the police officer or firefighter. If the surviving spouse ~~for surviving domestic partner~~ or child elects to accept coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter would have been eligible to participate or to discontinue coverage under the group insurance, plan or medical and hospital service in which the police officer or firefighter was a participant, the spouse, ~~domestic partner~~ child or legal guardian of the child must notify in writing the local governmental agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. ~~{The}~~ ***Except as otherwise provided in ~~{this section and}~~ NRS 287.023,*** the local governmental agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the group insurance, plan of benefits or medical and hospital service for the surviving spouse or child who meets the requirements set forth in subsection 1.

3. A surviving spouse ~~for surviving domestic partner~~ is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse ~~for surviving domestic partner~~. A surviving child is eligible to receive coverage pursuant to this section until the child reaches {:

—(a) The age of 18 years; or

—(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school.} ***the age at which the child would not otherwise be eligible to receive coverage under the group insurance, plan of benefits or medical and hospital service.***

4. ~~{A local governmental agency is not required to pay the entire cost of health care benefits pursuant to subsection 2 for a surviving domestic partner who meets the requirements set forth in subsection 1.~~

~~5.7~~ As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 6. NRS 287.023 is hereby amended to read as follows:

287.023 1. Whenever an officer or employee of the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada retires under the conditions set forth in NRS 1A.350 or 1A.480, or 286.510 or 286.620 and, during the period in which the person served as an officer or employee, was eligible to be covered or had dependents who were eligible to

be covered by any group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025, the officer or employee has the option upon retirement to cancel or continue any such coverage to the extent that such coverage is not provided to the officer or employee or a dependent by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq.

2. A retired person who continues coverage under the Public Employees' Benefits Program shall assume the portion of the premium or contribution costs for the coverage which the governing body or the State does not pay on behalf of retired officers or employees. A dependent of such a retired person has the option, which may be exercised to the same extent and in the same manner as the retired person, to cancel or continue coverage in effect on the date the retired person dies. The dependent is not required to continue to receive retirement payments from the Public Employees' Retirement System to continue coverage.

3. Notice of the selection of the option must be given in writing to the last public employer of the officer or employee within 60 days after the date of retirement or death, as the case may be. If no notice is given by that date, the retired officer or employee and any dependents shall be deemed to have selected the option to cancel the coverage for the group insurance, plan of benefits or medical and hospital service established pursuant to NRS 287.010, 287.015, 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 or coverage under the Public Employees' Benefits Program pursuant to paragraph (a) of subsection 1 of NRS 287.025.

4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State:

(a) May pay the cost, or any part of the cost, of coverage established pursuant to NRS 287.010, 287.015 or 287.020 or paragraph (b), (c) or (d) of subsection 1 of NRS 287.025 for persons who continue that coverage pursuant to subsection 1, but it must not pay a greater portion than it does for its current officers and employees.

(b) Shall pay the same portion of the cost of coverage under the Public Employees' Benefits Program for *retired* persons who ~~for~~:

~~— (1) Were initially hired before January 1, 2010, and who retire and are covered under the Program pursuant to subsection 1 or who subsequently reinstate coverage under the Program pursuant to NRS 287.0205; or~~

~~— (2) Are initially hired on or after January 1, 2010, and who retire with:~~

~~— (1) At least 15 years of service credit, which must include local governmental service and may include state service, and who have participated in the Program on a continuous basis since their retirement from such employment; or~~

—— (II) ~~At least 5 years of service credit, which must include local governmental service and may include state service, who do not have at least 15 years of service credit to qualify under sub-subparagraph (I) as a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education.~~

➤ ~~as the State pays pursuant to {subsection 1 of} NRS 287.046 for persons retired with state service who participate in the {Public Employees' Benefits} Program.~~

5. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of this State shall, for the purpose of establishing actuarial data to determine rates and coverage for persons who continue coverage for group insurance, a plan of benefits or medical and hospital service with the governing body pursuant to subsection 1, commingle the claims experience of those persons with the claims experience of active officers and employees and their dependents who participate in the group insurance, a plan of benefits or medical and hospital service.

Sec. 7. NRS 287.0402 is hereby amended to read as follows:

287.0402 As used in NRS 287.0402 to 287.049, inclusive, ~~and sections 2 and section 3 of this act~~, unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, ~~and section 2 of this act~~ have the meanings ascribed to them in those sections.

Sec. 8. NRS 287.043 is hereby amended to read as follows:

287.043 1. The Board shall:

(a) Establish and carry out a program to be known as the Public Employees' Benefits Program which:

(1) Must include a program relating to group life, accident or health insurance, or any combination of these; and

(2) May include:

(I) A plan that offers flexibility in benefits, and for which the rates must be based only on the experience of the participants in the plan and not in combination with the experience of participants in any other plan offered under the Program; or

(II) A program to reduce taxable compensation or other forms of compensation other than deferred compensation,

➤ for the benefit of all state officers and employees and other persons who participate in the Program.

(b) Ensure that the Program is funded on an actuarially sound basis and operated in accordance with sound insurance and business practices.

2. In establishing and carrying out the Program, the Board shall:

(a) For the purpose of establishing actuarial data to determine rates and coverage for active and retired state officers and employees and their dependents, commingle the claims experience of such active and retired

officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(b) Except as otherwise provided in this paragraph, negotiate and contract pursuant to paragraph (a) of subsection 1 of NRS 287.025 with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that wishes to obtain exclusive group insurance for all of its active and retired officers and employees and their dependents, except as otherwise provided in sub-subparagraph (III) of subparagraph (2) of paragraph (h), by participation in the Program. The Board shall establish separate rates and coverage for active and retired officers and employees of those local governmental agencies and their dependents based on actuarial reports that commingle the claims experience of such active and retired officers and employees and their dependents for whom the Program provides primary health insurance coverage into a single risk pool.

(c) Except as otherwise provided in paragraph (d), provide public notice in writing of any proposed changes in rates or coverage to each participating public agency that may be affected by the changes. Notice must be provided at least 30 days before the effective date of the changes.

(d) If a proposed change is a change in the premium or contribution charged for, or coverage of, health insurance, provide written notice of the proposed change to all participants in the Program. The notice must be provided at least 30 days before the date on which a participant in the Program is required to select or change the participant's policy of health insurance.

(e) Purchase policies of life, accident or health insurance, or any combination of these, or, if applicable, a program to reduce the amount of taxable compensation pursuant to 26 U.S.C. § 125, from any company qualified to do business in this State or provide similar coverage through a plan of self-insurance established pursuant to NRS 287.0433 for the benefit of all eligible participants in the Program.

(f) Except as otherwise provided in this title, develop and establish other employee benefits as necessary.

(g) Investigate and approve or disapprove any contract proposed pursuant to NRS 287.0479.

(h) Adopt such regulations and perform such other duties as are necessary to carry out the provisions of NRS 287.010 to 287.245, inclusive, ~~and sections 27~~ and section 3 of this act, including, without limitation, the establishment of:

(1) Fees for applications for participation in the Program and for the late payment of premiums or contributions;

(2) Conditions for entry and reentry into and exit from the Program by local governmental agencies pursuant to paragraph (a) of subsection 1 of NRS 287.025, which:

(I) Must include a minimum period of 4 years of participation for entry into the Program;

(II) Must include a requirement that participation of any retired officers and employees of the local governmental agency whose last continuous period of enrollment with the Program began after November 30, 2008, terminates upon termination of the local governmental agency's contract with the Program; and

(III) May allow for the exclusion of active and retired officers and employees of the local governmental agency who are eligible for health coverage from a health and welfare plan or trust that arose out of collective bargaining under chapter 288 of NRS or a trust established pursuant to 29 U.S.C. § 186;

(3) Procedures by which a group of participants in the Program may leave the Program pursuant to NRS 287.0479 and conditions and procedures for reentry into the Program by those participants;

(4) Specific procedures for the determination of contested claims;

(5) Procedures for review and notification of the termination of coverage of persons pursuant to paragraph (b) of subsection 4 of NRS 287.023; and

(6) Procedures for the payments that are required to be made pursuant to paragraph (b) of subsection 4 of NRS 287.023.

~~{(i) Appoint an independent certified public accountant. The accountant shall:~~

~~— (1) Provide an annual audit of the Program; and~~

~~— (2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~— (j) Appoint an attorney who specializes in employee benefits. The attorney shall:~~

~~— (1) Perform a biennial review of the Program to determine whether the Program complies with federal and state laws relating to taxes and employee benefits; and~~

~~— (2) Report to the Board and the Interim Retirement and Benefits Committee of the Legislature created pursuant to NRS 218E.420.~~

~~— 3. The Board shall submit an annual report regarding the administration and operation of the Program to the Director of the Legislative Counsel Bureau for transmittal to the appropriate committees of the Legislature, or to the Legislative Commission when the Legislature is not in regular session, for acceptance or rejection not more than 6 months before the Board establishes rates and coverage for participants for the following plan year. The report must include, without limitation:~~

~~— (a) Detailed financial results for the Program for the preceding plan year, including, without limitation, identification of the sources of revenue for the Program and a detailed accounting of expenses which are segregated by each type of benefit offered by the Program, and administrative costs. The results must be provided separately concerning:~~

~~— (1) Participants who are active and retired state officers and employees and their dependents;~~

~~— (2) All participants in the Program other than those described in subparagraph (1); and~~

~~— (3) Within the groups described in subparagraphs (1) and (2), active participants, retired participants for which the Program provides primary health insurance coverage and retired participants in the Program who are provided coverage for medical or hospital service, or both, by the Health Insurance for the Aged Act, 42 U.S.C. §§ 1395 et seq., or a plan that provides similar coverage.~~

~~— (b) An assessment of actuarial accuracy and reserves for the current plan year and the immediately preceding plan year.~~

~~— (c) A summary of the plan design for the current plan year, including, without limitation, information regarding rates and any changes in the vendors with which the Program has entered into contracts, and a comparison of the plan design for the current plan year to the plan design for the immediately preceding plan year. The information regarding rates provided pursuant to this paragraph must set forth the costs for participation in the Program paid by participants and employers on a monthly basis.~~

~~— (d) A description of all written communications provided generally to all participants by the Program during the preceding plan year.~~

~~— (e) A discussion of activities of the Board concerning purchasing coalitions.~~

~~4.]~~ 3. The Board may use any services provided to state agencies and shall use the services of the Purchasing Division of the Department of Administration to establish and carry out the Program.

~~{5.]~~ 4. The Board may make recommendations to the Legislature concerning legislation that it deems necessary and appropriate regarding the Program.

~~{6.]~~ 5. A participating public agency is not liable for any obligation of the Program other than indemnification of the Board and its employees against liability relating to the administration of the Program, subject to the limitations specified in NRS 41.0349.

~~{7.]~~ 6. As used in this section, "employee benefits" includes any form of compensation provided to a public employee except federal benefits, wages earned, legal holidays, deferred compensation and benefits available pursuant to chapter 286 of NRS.

Sec. 9. NRS 287.044 is hereby amended to read as follows:

287.044 1. Except as otherwise provided in subsection 2, each participating state agency shall pay to the Program an amount specified by law for every state officer or employee who is employed by a participating public agency on a permanent and full-time basis and elects to participate in the Program.

2. A member of the Senate or Assembly who elects to participate in the Program shall pay the entire premium or contribution for the member's insurance.

3. State officers and employees who elect to participate in the Program must authorize deductions from their compensation for the payment of premiums or contributions for the Program. Any deduction from the compensation of a state officer or employee for the payment of such a premium or contribution must be based on the actual amount of the premium or contribution after deducting any amount ~~{of the premium or contribution which is paid}~~ **allocated by the Board** pursuant to subsection ~~{1-}~~ **6**.

4. If a state officer or employee chooses to cover any dependents, whenever this option is made available by the Board, except as otherwise provided in NRS 287.021 and 287.0477, the state officer or employee must pay the difference between the amount of the premium or contribution for the coverage for the state officer or employee and such dependents and ~~{the}~~ **any** amount ~~{paid by the participating state agency that employs the officer or employee.}~~ **allocated by the Board pursuant to subsection 6**.

5. A participating state agency shall not pay any part of those premiums or contributions if the group life insurance or group accident or health insurance is not approved by the Board.

6. The Board may allocate the money paid to the Program pursuant to ~~{this section}~~ **subsection 1** between the cost of premiums and contributions for group insurance for each state officer or employee, except a member of the Senate or Assembly, and the dependents of each state officer or employee.

Sec. 10. NRS 287.046 is hereby amended to read as follows:

287.046 1. The Department of Administration shall establish an assessment that is to be used to pay for a portion of the cost of premiums or contributions for the Program for persons who have retired with state service ~~. {before January 1, 1994, or under the circumstances set forth in paragraph (a), (b) or (c) of subsection 3.}~~

2. The money assessed pursuant to subsection 1 must be deposited into the Retirees' Fund and must be based upon ~~{an}~~ **a base** amount approved by the Legislature each session to pay for a portion of the current and future health and welfare benefits for ~~{such retirees.}~~ **persons who retired before January 1, 1994, or for persons who retire on or after January 1, 1994, as adjusted by subsection 3**. Except as otherwise provided in subsection ~~{4-}~~ **5**, the portion to be paid to the Program from the Retirees' Fund on behalf of such persons must be equal to a portion of the cost for each retiree and the retiree's dependents who are enrolled in the plan, as defined for each year of the plan by the Program.

3. ~~{Adjustments}~~ **Except as otherwise provided in subsection 4, adjustments** to the portion **of the amount approved by the Legislature pursuant to subsection 2 to be** paid by the Retirees' Fund ~~{must be as follows:~~

~~—(a) For~~ **for** persons who retire on or after January 1, 1994, with state service ~~;~~

~~—(1)~~ **must be as follows:**

(a) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.

~~[(2)]~~ (b) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.

~~[(b) For persons who are]~~

4. No money may be paid by the Retirees' Fund on behalf of a retired person who is initially hired by the State on or after January 1, 2010, and who ~~retire with at least 15 years of service credit, which must include state service and may include local governmental service, and who have~~ :

(a) ~~Has not~~ participated in the Program on a continuous basis since ~~their~~ retirement from such employment ~~;~~ ~~for each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~—(c) For persons who are initially hired by the State on or after January 1, 2010, and who retire with at least 5 years of service credit, which must include state service and may include local governmental service, who do~~ ; **or**

(b) ~~Does~~ not have at least 15 years of service ~~credit to qualify under paragraph (b) as~~ , **which must include state service and may include local governmental service, unless the retired person does not have at least 15 years of service as** a result of a disability for which disability benefits are received under the Public Employees' Retirement System or a retirement program for professional employees offered by or through the Nevada System of Higher Education, and ~~who have~~ **has** participated in the Program on a continuous basis since ~~their~~ retirement from such employment . ~~;~~

~~—(1) For each year of service less than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the Retirees' Fund must be reduced by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 75 percent of the base funding level defined by the Legislature.~~

~~—(2) For each year of service greater than 15 years, excluding service purchased pursuant to NRS 1A.310 or 286.300, the portion paid by the~~

~~Retirees' Fund must be increased by an amount equal to 7.5 percent of the base funding level defined by the Legislature. In no event may the adjustment exceed 37.5 percent of the base funding level defined by the Legislature.~~

~~—4.}~~ 5. If the amount calculated pursuant to subsection 3 exceeds the actual premium or contribution for the plan of the Program that the retired participant selects, the balance must be credited to the Program Fund.

~~{5.}~~ 6. For the purposes of subsection ~~{1.}~~ 3:

(a) Credit for service must be calculated in the manner provided by chapter 286 of NRS.

(b) No proration may be made for a partial year of ~~{state}~~ service.

~~{6.}~~ 7. The Department shall agree through the Board with the insurer for billing of remaining premiums or contributions for the retired participant and the retired participant's dependents to the retired participant and to the retired participant's dependents who elect to continue coverage under the Program after the retired participant's death.

Sec. 11. NRS 287.0465 is hereby amended to read as follows:

287.0465 1. If ~~{an officer or employee of the State or a dependent of such an officer or employee}~~ **a member** incurs an illness or injury for which medical services are payable under the plan for self-insurance established by the Board and the illness or injury is incurred under circumstances creating a legal liability in some person, other than the ~~{officer, employee or dependent}~~ **member**, to pay all or part of the cost of those services, the Board is subrogated to the right of the ~~{officer, employee or dependent}~~ **member** to the extent of all such costs, and may join or intervene in any action by the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to enforce that legal liability.

2. If ~~{an officer, employee or dependent}~~ **a member** or any ~~{successors}~~ **successor** in interest fail or refuse to commence an action to enforce that legal liability, the Board may commence an independent action, after notice to the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest, to recover all costs to which it is entitled. In any such action by the Board, the ~~{officer, employee or dependent}~~ **member** may be joined as a third party defendant.

3. If the Board is subrogated to the rights of the ~~{officer, employee or dependent}~~ **member** or any ~~{successors}~~ **successor** in interest as provided in subsection 1, the Board has a lien upon the total proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of a judgment or settlement or otherwise. Within 15 days after recovery by receipt of the proceeds of the judgment, settlement or other recovery, the ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board of the recovery and pay the Board the amount due to it pursuant to this section. The ~~{officer, employee or dependent}~~ **member** or any successors in interest are not entitled to double recovery for the same injury.

4. The ~~{officer, employee or dependent}~~ **member** or any successors in interest shall notify the Board in writing before entering any settlement or agreement or commencing any action to enforce the legal liability referred to in subsection 1.

5. *As used in this section, "member" means:*

(a) *An active or retired officer or employee of the State or a dependent of such an officer or employee who is covered under the Program; and*

(b) *An active or retired officer or employee of a local governmental agency or a dependent of such an officer or employee who is covered under the Program.*

Sec. 12. NRS 287.0475 is hereby amended to read as follows:

287.0475 1. A retired public officer or employee or the surviving spouse ~~for surviving domestic partner~~ of a retired public officer or employee who is deceased may, in any even-numbered year, reinstate any insurance under the Program, except life insurance, that, at the time of reinstatement, is provided by the Program if the retired public officer or employee retired:

(a) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from a participating state agency or was enrolled in a retirement program provided pursuant to NRS 286.802; or

(b) Pursuant to NRS 1A.350 or 1A.480, or 286.510 or 286.620, from employment with a county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State which is a participating local governmental agency at the time of the request for reinstatement ~~{-}~~, ***unless the retired public officer or employee is excluded from participation in the Program pursuant to sub-subparagraph (III) of subparagraph (2) of paragraph (h) of subsection 2 of NRS 287.043.***

2. Reinstatement pursuant to subsection 1 must be requested by:

(a) Giving written notice to the Program of the intent of the public officer or employee or surviving spouse ~~for surviving domestic partner~~ to reinstate the insurance not later than March 15 of an even-numbered year;

(b) Accepting the Program's current plan of insurance and any subsequent changes thereto; and

(c) Except as otherwise provided in NRS 287.046, paying any portion of the premiums or contributions for coverage under the Program, in the manner set forth in NRS 1A.470 or 286.615, which are due from the date of reinstatement and not paid by the public employer.

~~{3. Reinstatement of insurance excludes claims for expenses for any condition for which medical advice, treatment or consultation was rendered within 12 months before reinstatement unless the reinstated insurance has been in effect more than 12 consecutive months.}~~

Sec. 13. NRS 287.0477 is hereby amended to read as follows:

287.0477 1. Except as otherwise provided in subsection 4, the surviving spouse ~~f, surviving domestic partner~~ and any surviving child of a

police officer or firefighter who was employed by a participating public agency and who was killed in the line of duty may join or continue coverage under the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 if the police officer or firefighter was a participant or would have been eligible to participate on the date of the death of the police officer or firefighter. If the surviving spouse ~~for surviving domestic partner~~ or child elects to join or discontinue coverage under the Public Employees' Benefits Program pursuant to this subsection, the spouse, ~~domestic partner~~ child or legal guardian of the child must notify in writing the participating public agency that employed the police officer or firefighter within 60 days after the date of death of the police officer or firefighter.

2. Except as otherwise provided in subsection 4, the surviving spouse ~~for surviving domestic partner~~ and any surviving child of a volunteer firefighter who was killed in the line of duty and who was officially a member of a volunteer fire department in this State is eligible to join the Public Employees' Benefits Program. If such a spouse ~~for domestic partner~~ or child elects to join the Public Employees' Benefits Program, the spouse, ~~domestic partner~~ child or legal guardian of the child must notify in writing the Board within 60 days after the date of death of the volunteer firefighter.

3. The ~~Except as otherwise provided in this section, the~~ participating public agency that employed the police officer or firefighter shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program or another insurer or employee benefit plan approved by the Board pursuant to NRS 287.0479 for the surviving spouse or child who meets the requirements set forth in subsection 1. The State of Nevada shall pay the entire cost of the premiums or contributions for the Public Employees' Benefits Program for the surviving spouse or child who elects to join the Public Employees' Benefits Program pursuant to subsection 2.

4. A surviving spouse ~~for surviving domestic partner~~ is eligible to receive coverage pursuant to this section for the duration of the life of the surviving spouse, ~~for surviving domestic partner~~. A surviving child is eligible to receive coverage pursuant to this section until the child reaches ~~the age of 18 years; or~~

—(a) The age of 18 years; or

—(b) The age of 23 years, if the child is enrolled as a full-time student in an accredited university, college or trade school. ***the age at which the child would not otherwise be eligible to receive coverage under the Public Employees' Benefits Program.***

5. ~~A participating public agency and the State of Nevada are not required to pay the entire cost of health care benefits pursuant to subsection 3 for a surviving domestic partner who elects to join the Public Employees' Benefits Program pursuant to subsection 2.~~

~~6.~~ As used in this section "police officer" has the meaning ascribed to it in NRS 617.135.

Sec. 14. NRS 287.04366 is hereby repealed.

Sec. 15. 1. This section and sections 4 and 12 of this act become effective on July 1, 2011.

2. Sections 1, 2, 3, 5 to 11, inclusive, 13 and 14 of this act become effective on October 1, 2011.

3. Section 4.5 of this act becomes effective on the date on which the provisions of the Patient Protection and Affordable Care Act, Public Law 111-148, cease to allow a grandfathered health plan to exclude claims for preexisting medical conditions.

TEXT OF REPEALED SECTION

287.04366 Audits and reports. The Board shall provide to the Department of Administration and to the Interim Retirement and Benefits Committee of the Legislature, created by NRS 218E.420:

1. An annual audit of the Retirees' Fund to be conducted by an independent certified public accountant;

2. An annual report concerning the Retirees' Fund; and

3. An independent biennial certified actuarial valuation and report of the State's health and welfare benefits for current and future state retirees, which are provided for the purpose of developing the annual required contribution pursuant to the statements issued by the Governmental Accounting Standards Board.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Thank you, Mr. President. Assembly Bill No. 80 relates to the Public Employees' Benefits Program (PEBP). The bill is a clean up bill for this Session. The amendment removes statutory language that is already in regulation. There is little reason to place into statute that which is already in regulation. Regulations can be changed by the PEBP board at any time, however statutory regulation takes two years to change. I encourage your support.

Amendment adopted.

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

Assembly Bill No. 136.

Bill read third time.

Remarks by Senator Roberson.

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

Thank you, Mr. President. I will say it again to all of the members of this body that this bill will result in more serious felons to be released from prison early. Vote your conscience.

Roll call on Assembly Bill No. 136:

YEAS—11.

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

Assembly Bill No. 136 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 202.

Bill read third time.

Remarks by Senators McGinness, Kieckhefer and Kihuen.

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

SENATOR MCGINNESS:

Thank you, Mr. President. I would like an explanation of this bill. Was there any discussion with local governments where they would be abating those taxes; if they have a say, or is there at least some discussion on this?

SENATOR KIECKHEFER:

Thank you, Mr. President. I do not recall a specific conversation during the Committee meeting with the local governments. Mr. Fontaine from the Nevada Association of Counties testified on the bill. There was nothing specific as to opposition. The purpose of the bill is to provide economic incentive to encourage additional manufacturers to relocate into the State of Nevada. There was a consensus with the Select Committee on Economic Growth & Employment that the provisions would help ensure diversification of our economy and try to bring new business to the State.

SENATOR KIHUEN:

Assembly Bill No. 202 requires the Director of the Office of Energy to establish regulations for granting a partial abatement of property taxes, other than any taxes imposed for public education, on manufacturing businesses in Nevada. A manufacturer that applies for the partial abatement must renovate an existing building or other structure to meet the equivalent of the silver level or higher in accordance with the Green Building Rating System.

Roll call on Assembly Bill No. 202:

YEAS—21.

NAYS—None.

Assembly Bill No. 202 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 204.

Bill read third time.

Remarks by Senator Manendo.

Senator Manendo disclosed that part of this bill has to do with the collision repair industry in which he is employed. He advised the bill will not affect him any differently than anyone else in the industry. He will be voting.

Roll call on Assembly Bill No. 204:

YEAS—21.

NAYS—None.

Assembly Bill No. 204 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 258.

Bill read third time.

Remarks by Senator Wiener.

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

Assembly Bill No. 258 declares that the State of Nevada leads the United States in gaming regulation and enforcement, is uniquely positioned to develop a comprehensive and effective regulatory structure for interactive gaming, and must be prepared for possible federal legislation.

The bill requires the Nevada Gaming Commission, on or before January 31, 2012, to adopt regulations governing the licensing and operation of interactive gaming, including Internet poker. The regulations must establish appropriate licensing fees, set forth standards for the suitability of a person to be licensed as a manufacturer of interactive gaming systems, and provide that gross revenue received is subject to the same license fee provisions as games and gaming devices, unless federal law otherwise provides for a similar fee or tax.

The bill requires the regulations to provide that any license to operate interstate interactive gaming does not become effective until a federal law authorizing the specific type of interactive gaming for which the license was granted is enacted, or the U.S. Department of Justice notifies the Commission or the Gaming Control Board that it is permissible under federal law. Finally, Assembly Bill No. 258 provides that it is unlawful for an owner or lessee to operate an interactive gaming system without having procured all required local, State, and federal licenses.

Roll call on Assembly Bill No. 258:

YEAS—19.

NAYS—Cegavske, Halseth—2.

Assembly Bill No. 258 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 273.

Bill read third time.

Roll call on Assembly Bill No. 273:

YEAS—21.

NAYS—None.

Assembly Bill No. 273 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 358.

Bill read third time.

Roll call on Assembly Bill No. 358:

YEAS—21.

NAYS—None.

Assembly Bill No. 358 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 390.

Bill read third time.

Roll call on Assembly Bill No. 390:

YEAS—21.

NAYS—None.

Assembly Bill No. 390 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 452.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 452 provides for the electronic filing of certain campaign contribution and expenditure reports and statements of financial disclosure with the Secretary of State, amends related deadlines for the filing of these documents, and requires the Secretary of State to design the forms. A person signing a campaign or expenditure report under an oath to God is subject to the same penalties as if the individual signed the report under penalty of perjury. Exceptions to filing reports electronically are provided for candidates who meet certain requirements. Additionally, campaign contributions and expenditures, expenses, and unspent contributions that are disposed of which are less than \$100 must be reported in the aggregate.

Roll call on Assembly Bill No. 452:

YEAS—14.

NAYS—Brower, Gustavson, Halseth, McGinness, Rhoads, Roberson, Settlemeyer—7.

Assembly Bill No. 452 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 471.

Bill read third time.

Roll call on Assembly Bill No. 471:

YEAS—21.

NAYS—None.

Assembly Bill No. 471 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 473.

Bill read third time.

Remarks by Senators Parks and McGinness.

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

SENATOR PARKS:

Assembly Bill No. 473 authorizes a clerk to use abbreviations for the terms "independent" and "nonpartisan" on sample and actual ballots. Additionally, this measure revises procedures for preparing and sending absent ballots to certain voters in compliance with federal law, and revises the required hours of operation for city and county clerks' offices during voter registration periods. It also requires that complaints challenging initiatives or referenda be given priority over all but criminal matters pending before a court, and makes technical revisions to the filing deadline for candidates for the Board of the Virgin Valley Water District.

SENATOR MCGINNESS:

Could the Chair of the Committee answer a question about the hours of operation? The bill says, "the hours of operation." Was that until midnight for all counties?

SENATOR PARKS:

Thank you, Mr. President. We had an amendment earlier today that removed those late hours. That was the portion where you could file to register to vote electronically. We removed that.

Roll call on Assembly Bill No. 473:

YEAS—21.

NAYS—None.

Assembly Bill No. 473 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 489.

Bill read third time.

Roll call on Assembly Bill No. 489:

YEAS—21.

NAYS—None.

Assembly Bill No. 489 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 530.

Bill read third time.

Roll call on Assembly Bill No. 530:

YEAS—21.

NAYS—None.

Assembly Bill No. 530 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 549.

Bill read third time.

Roll call on Assembly Bill No. 549:

YEAS—21.

NAYS—None.

Assembly Bill No. 549 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 410.

Bill read third time.

Roll call on Assembly Bill No. 410:

YEAS—21.

NAYS—None.

Assembly Bill No. 410 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 7:31 p.m.

SENATE IN SESSION

At 7:37 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Schneider moved to reconsider the vote whereby Senate Bill No. 164 this day lost.

Motion carried on a division of the house.

Senator Roberson moved to reconsider the vote whereby Assembly Bill No. 452 this day passed.

Motion carried on a division of the house.

Senator Wiener moved that Senate Bills Nos. 259, 292, 323, 339, 414 be taken from Unfinished Business and placed on Unfinished Business on the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 223.

Bill read third time.

The following amendment was proposed by Senator Lee:

Amendment No. 851.

"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, ~~the entire amount~~ \$400 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}~~ ***10*** 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 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 ~~by~~ **pursuant to this section**, the judgment debtor must, within ~~{8} {20 calendar}~~ **10** 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} 10 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 ~~the~~ *an executed claim of exemption*. A copy of the ~~affidavit claiming the~~ *claim of exemption* must be served upon the sheriff, *the garnishee* and the judgment creditor within ~~8~~ *10* 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]~~ \$400 or the entire amount in the account, whichever is less, is not subject to garnishment ~~[-]~~, unless the garnishment is for the recovery of money owed for the support of any person. 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 necessities 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 Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Currently Assembly Bill No. 223 provides that if a writ relating to a civil judgment is levied on the personal bank account of a debtor, and if money has been deposited electronically in the account within the last 45 days that is reasonably identifiable as exempt from execution, \$1,000 or the balance in the account, whichever is less, is not subject to execution unless recovery of the money is for the support of a person.

The amendment lowers the threshold account balance from \$1,000 to \$400 and currently, the bill changes the deadline for serving a claim of exemption from 8 to 20 calendar days after a notice of writ is served on the debtor. The amendment adjusts this deadline to 10 days.

Amendment adopted.

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

Senator Horsford moved that the Senate recess until 9 p.m.

Motion carried.

Senate in recess at 7:44 p.m.

SENATE IN SESSION

At 10:45 p.m.

President Krolicki presiding.

Quorum present.

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

May 30, 2011

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bill No. 351.

MARK KRMPOTIC

Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved to take Assembly Bill No. 351, upon return from reprint, from the General File and re-refer it to the Committee on Finance.

Motion carried.

Senator Wiener moved that Assembly Bill No. 260 be taken from the Secretary's desk and placed at the top of the General File.

Motion carried.

Senator Wiener moved that Assembly Bill No. 53 be taken from the Secretary's desk and placed on the General File.

Motion carried.

Senator Wiener moved that Senate Bill No. 164 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. 260.

Bill read third time.

The following amendment was proposed by Senators Wiener and Copening:

Amendment No. 856.

"SUMMARY—Requires newly elected Legislators to attend training before the beginning of their first legislative session. (BDR 17-29)"

"AN ACT relating to the Legislature; requiring newly elected Legislators to attend training before the beginning of their first legislative session; ~~providing a monetary penalty for failure to attend the training sessions;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~{Section 3 of this}~~ **This** bill requires newly elected Legislators to attend training before the beginning of their first legislative session. The Speaker of the Assembly and the Majority Leader of the Senate are required to specify the dates of the training and to indicate which training sessions are mandatory. ~~{Section 4 of this bill provides that a Legislator who does not attend a mandatory training session without being excused must pay a penalty during the regular legislative session equal to one day of salary for each training session that was missed, to be deducted from the salary otherwise payable to the Legislator during the regular session.}~~

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

Section 1. Chapter 218A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *For the purposes of ~~{sections}~~ section 3 ~~{and 4}~~ of this act, the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate are:*

1. For the period that begins immediately following a regular session of the Legislature until the day of the next general election, the members of the Legislature who served in those positions during that regular session or the persons designated as replacements in those positions; and

2. For the period that begins on the day next after the general election until the commencement of the ensuing regular session of the Legislature, the persons designated for those positions for the ensuing session.

Sec. 3. *1. A Legislator who is elected to the Assembly or the Senate who has not previously served in either House of the Legislature shall attend the training required pursuant to this section unless his or her attendance is excused pursuant to subsection 6.*

2. A member of the Assembly who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Speaker of the Assembly. A member of the Senate who is required to attend training pursuant to this section shall attend each training session designated as mandatory by the Majority Leader of the Senate.

3. The training required pursuant to this section must be recorded electronically and include:

(a) Legislative procedure and protocol;
(b) Overviews of the state budget and the budgetary process;
(c) Briefings on policy issues relevant to the State; and
(d) Such other matters as are deemed appropriate by the Speaker of the Assembly, the Majority Leader of the Senate, the Minority Leader of the Assembly and the Minority Leader of the Senate for their respective Houses.

4. The Director of the Legislative Counsel Bureau shall provide staff support for the training required pursuant to this section.

5. *The training required pursuant to this section must not exceed a total of 10 days and must be conducted between the day next after the general election and the commencement of the ensuing regular session of the Legislature. The dates for the training must be determined by the Speaker of the Assembly and the Majority Leader of the Senate and posted on the public website of the Nevada Legislature on an Internet website not later than 90 days before the first day on which training will be conducted.*

6. *The Speaker of the Assembly or the Majority Leader of the Senate may excuse a Legislator from attending a training session otherwise required pursuant to this section in case of illness, injury, emergency, employment or other good cause as determined by the Speaker or Majority Leader.*

7. The Director of the Legislative Counsel Bureau shall provide an electronic copy of a training session and a form for attesting completion of the training session to any Legislator who was unable to attend the training session. To successfully complete the training required pursuant to this section, such a Legislator must view the training session electronically and submit the attestation to the Director of the Legislative Counsel Bureau.

8. The Director of the Legislative Counsel Bureau shall issue a "Certificate of Graduation from the Legislative Training Academy" to each Legislator who successfully completes the training required pursuant to this section.

~~Sec. 4. [1. A Legislator who fails to attend a training session designated as mandatory pursuant to section 3 of this act, unless excused by the Speaker of the Assembly or the Majority Leader of the Senate, as applicable, shall pay a penalty equal to one day of salary for each mandatory training session which he or she failed to attend. The penalty must be withheld from the salary otherwise payable to the Legislator pursuant to NRS 218A.630.~~

~~—2. A Legislator may appeal a penalty imposed pursuant to subsection 1 to the Assembly or Senate, as applicable. The Assembly or Senate, or a committee appointed to hear the appeal, may affirm the penalty, reduce the amount of the penalty or excuse the penalty. Each House shall determine the procedure for such an appeal.] (Deleted by amendment.)~~

Sec. 5. NRS 218A.635 is hereby amended to read as follows:

218A.635 1. Except as otherwise provided in subsections 2 and 4, each Senator, Assemblywoman and Assemblyman is entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session, and the per diem allowance and travel expenses provided by law, for each day of attendance at a presession orientation conference **or a training session conducted pursuant to section 3 of this act** or at a conference, meeting, seminar or other gathering at which the Legislator officially represents the State of Nevada or its Legislature.

2. A nonreturning Legislator must not be paid the compensation or per diem allowance and travel expenses provided in subsection 1 for attendance at a conference, meeting, seminar or other gathering unless:

(a) It is conducted by a statutory committee or a committee of the Legislature and the Legislator is a member of that committee; or

(b) The Majority Leader of the Senate or Speaker of the Assembly designates the Legislator to attend because of the Legislator's knowledge or expertise.

3. For the purposes of this section, "nonreturning Legislator" means a Legislator who, in the year that the Legislator's term of office expires:

(a) Has not filed a declaration or an acceptance of candidacy within the time allowed for filing for election as a Senator, Assemblywoman or Assemblyman;

(b) Has failed to win nomination as a candidate for the Senate or the Assembly at the primary election; or

(c) Has withdrawn as a candidate for the Senate or the Assembly.

4. This section does not apply:

(a) During a regular or special session of the Legislature; or

(b) To any Senator, Assemblywoman or Assemblyman who is otherwise entitled to receive a salary and the per diem allowance and travel expenses.

Sec. 6. NRS 218A.640 is hereby amended to read as follows:

218A.640 A Legislator who attends and is compensated for attending a:

1. Session or pre-session orientation conference of the Legislature ~~or~~ **or a training session conducted pursuant to section 3 of this act;**

2. Meeting of an interim legislative committee; or

3. Meeting of the Legislative Commission or its Audit Subcommittee,
 ➤ is not entitled to receive an additional day's salary or compensation for any other such meeting or conference the Legislator attends in that day.

Sec. 7. NRS 218A.645 is hereby amended to read as follows:

218A.645 1. The per diem expense allowance and the travel and telephone expenses of Senators, Assemblymen and Assemblywomen elected or appointed and in attendance at any session or pre-session orientation conference of the Legislature **or training session conducted pursuant to section 3 of this act** must be allowed in the manner set forth in this section.

2. For initial travel from the Legislator's home to Carson City, Nevada, to attend a session or pre-session orientation conference of the Legislature ~~or~~ **or a training session conducted pursuant to section 3 of this act**, and for return travel from Carson City, Nevada, to the Legislator's home upon adjournment sine die of a session or termination of a pre-session orientation conference of the Legislature ~~or~~ **or termination of a training session conducted pursuant to section 3 of this act**, each Senator, Assemblyman and Assemblywoman is entitled to receive:

(a) A per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for 1 day's travel to and 1 day's travel from the session, **training session** or conference.

(b) Travel expenses.

3. In addition to the per diem and travel expenses authorized by subsection 2, each Senator, Assemblyman and Assemblywoman is entitled to receive a supplemental allowance which must not exceed:

(a) A total of \$10,000 during each regular session of the Legislature for:

(1) The Legislator's actual expenses in moving to and from Carson City for the session;

(2) Travel to and from the Legislator's home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business;

(3) If the Legislator rents furniture for the Legislator's temporary residence rather than moving similar furniture from the Legislator's home, the cost of renting that furniture not to exceed the amount that it would have cost to move the furniture to and from the Legislator's home; and

(4) If:

(I) The Legislator's home is more than 50 miles from Carson City; and

(II) The Legislator maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for occupancy during a regular legislative session,

↳ the cost of such additional housing, paid at the end of each month during the legislative session, beginning the month of the first day of the legislative session and ending the month of the adjournment sine die of the legislative session, in an amount that is the fair market rent for a one bedroom unit in Carson City as published by the United States Department of Housing and Urban Development prorated for the number of days of the month that the Legislator actually maintained the temporary quarters in or near Carson City. For the purposes of this subparagraph, any day before the first day of the legislative session or after the day of the adjournment sine die of the legislative session may not be counted as a day for which the Legislator actually maintained such temporary quarters; and

(b) A total of \$1,200 during each special session of the Legislature for travel to and from the Legislator's home or temporary residence or for traveling to and from legislative committee and subcommittee meetings or hearings or for individual travel within the State which relates to legislative business.

4. Each Senator, Assemblyman and Assemblywoman is entitled to receive a per diem expense allowance, not to exceed the maximum rate established by the Federal Government for the Carson City area, for each day that the Legislature is in session or in a presession orientation conference ~~or~~ **or a training session conducted pursuant to section 3 of this act**, and for each day that the Legislator attends a meeting of a standing committee of which the Legislator is a member when the Legislature has adjourned for more than 4 days.

5. Each Senator, Assemblyman and Assemblywoman who maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for continuous occupancy for the duration of a legislative session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 14 days in each period in which:

(a) The Legislature has adjourned until a time certain; and

(b) The Senator, Assemblyman or Assemblywoman is not entitled to a per diem expense allowance pursuant to subsection 4.

6. In addition to the per diem expense allowance authorized by subsection 4 and the lodging allowance authorized by subsection 5, each Senator, Assemblyman and Assemblywoman who maintains temporary quarters in or near Carson City for which the Legislator has entered into a lease or other agreement for continuous occupancy for the duration of a legislative session is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 17 days in each period in which:

(a) The Legislature has adjourned for more than 4 days; and

(b) The Senator, Assemblyman or Assemblywoman must obtain temporary lodging in a location that a standing committee of which the Legislator is a member is meeting.

7. Each Senator, Assemblyman and Assemblywoman is entitled to receive a lodging allowance equal to that portion of the expense allowance which the Legislative Commission designates by rule as being allocated to lodging, for not more than 6 days in each period in which:

(a) The Legislature has adjourned for more than 4 days; and

(b) The Senator, Assemblyman or Assemblywoman must obtain temporary lodging in a location that a standing committee of which the Legislator is a member is meeting.

➤ if the Senator, Assemblyman or Assemblywoman is not entitled to the per diem expense allowance authorized by subsection 4 or the lodging allowances authorized by subsections 5 and 6.

8. Each Senator, Assemblyman and Assemblywoman is entitled to receive a telephone allowance of not more than \$2,800 for the payment of tolls and charges incurred by the Legislator in the performance of official business during each regular session of the Legislature and not more than \$300 during each special session of the Legislature.

9. An employee of the Legislature assigned to serve a standing committee is entitled to receive the travel expenses and per diem allowance provided for state officers and employees generally if the employee is required to attend a hearing of the committee outside Carson City.

10. Claims for per diem expense allowances authorized by subsection 4 and lodging allowances authorized by subsections 5, 6 and 7 must be paid

once each week during a legislative session and upon completion of a pre-session orientation conference ~~or~~ *or a training session conducted pursuant to section 3 of this act.*

11. A claim for travel expenses authorized by subsection 2 or 3 must not be paid unless the Senator, Assemblyman or Assemblywoman submits a signed statement affirming:

- (a) The date of the travel; and
- (b) The places of departure and arrival and, if the travel is by private conveyance, the actual miles traveled. If the travel is not by private conveyance, the claim must include a receipt or other evidence of the expenditure.

12. Travel expenses authorized by subsections 2 and 3 are limited to:

(a) If the travel is by private conveyance, a rate equal to the standard mileage reimbursement rate for which a deduction is allowed for the purposes of federal income tax. If two or more Legislators travel in the same private conveyance, the Legislator who provided or arranged for providing the transportation is presumed entitled to reimbursement.

(b) If the travel is not by private conveyance, the actual amount expended. ➤ Transportation must be by the most economical means, considering total cost, time spent in transit and the availability of state-owned automobiles.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

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

This amendment does several things. The changes take place on page 3 of the amendment.

In Section 3, subsection 3, it requires that all sessions be recorded electronically. That stipulation is important to a section later in the amendment.

In Section 3, subsection 6, it adds employment as a reason for missing training.

In Section 3, subsection 7, it adds new language that the Director of the Legislative Counsel Bureau shall provide an electronic copy that has been recorded of all the training to each new member of the Legislature. For the days a member is not able to attend in person, that member will have an opportunity to review the DVD. Others may review it at any time, as well. Legislators would attest to the completion of viewing that DVD.

In Section 3, subsection 8, the Legislative Counsel Director will issue a "Certificate of Graduation from the Legislative Training Academy" to each Legislator who has completed the training.

Section 4 is very important. It is the deletion of all penalties.

Amendment adopted.

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

Senate Bill No. 421.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 847.

"SUMMARY—Revises provisions relating to certain funds. (BDR 40-1170)"

"AN ACT relating to public health; increasing the percentage of certain money received by the State to be allocated to the Fund for a Healthy

Nevada; revising provisions relating to the allocation of money in the Fund for a Healthy Nevada; eliminating the Trust Fund for Public Health; providing for the transfer of money remaining in the Trust Fund for Public Health; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Trust Fund for Public Health receives 10 percent of all "tobacco settlement" money, which is that money received by the State pursuant to any settlement entered into by the State and a manufacturer of tobacco products and money received by the State pursuant to any judgment in a civil action against a manufacturer of tobacco products. The Trust Fund for Public Health uses interest and income earned on that money to fund grants for programs relating to public health. (NRS 439.605) Additionally, 50 percent of all tobacco settlement money goes to the Fund for a Healthy Nevada and is then allocated to various other programs relating to public health in amounts or according to percentages of available revenues set by statute. (NRS 439.620, 439.630)

This bill eliminates the Trust Fund for Public Health and provides for money in the Trust Fund for Public Health to be transferred to the Fund for a Healthy Nevada. This bill also increases to 60 percent the share of tobacco settlement money allocated to the Fund for a Healthy Nevada. Additionally, this bill removes the provisions setting the percentages of available revenues to be allocated from the Fund for a Healthy Nevada on specific programs and instead requires the Department of Health and Human Services to propose a biennial plan for the allocation of money for those programs. The plan must be submitted as part of the proposed biennial budget of the Department. **In preparing the plan, the Department shall consider recommendations submitted by the Grants Management Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities.** Finally, this bill removes certain programs relating to the prevention, reduction and treatment of tobacco use from the list of programs for which money in the Fund for a Healthy Nevada must be allocated.

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

Section 1. NRS 439.620 is hereby amended to read as follows:

439.620 1. The Fund for a Healthy Nevada is hereby created in the State Treasury. The State Treasurer shall deposit in the Fund:

(a) ~~Fifty~~ **Sixty** percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) ~~Fifty~~ **Sixty** percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Fund. As administrator of the Fund, the State Treasurer:

(a) Shall maintain the financial records of the Fund;

(b) Shall invest the money in the Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Fund.

3. The interest and income earned on the money in the Fund must, after deducting any applicable charges, be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

4. The State Treasurer or the Department may submit to the Interim Finance Committee a request for an allocation for administrative expenses from the Fund pursuant to this section. Except as otherwise limited by this subsection, the Interim Finance Committee may allocate all or part of the money so requested. The annual allocation for administrative expenses from the Fund must:

(a) Not exceed 2 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the State Treasurer to administer the Fund; and

(b) Not exceed 5 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department, including, without limitation, the Aging and Disability Services Division of the Department, to carry out its duties set forth in NRS 439.630, to administer the provisions of NRS 439.635 to 439.690, inclusive, and NRS 439.705 to 439.795, inclusive.

➤ For the purposes of this subsection, the amount of money available for allocation to pay for the administrative costs must be calculated at the beginning of each fiscal year based on the total amount of money anticipated by the State Treasurer to be deposited in the Fund during that fiscal year.

5. The money in the Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

6. All money that is deposited or paid into the Fund is hereby appropriated to be used for any purpose authorized by the Legislature or by the Department for expenditure or allocation in accordance with the provisions of NRS 439.630. Money expended from the Fund must not be used to supplant existing methods of funding that are available to public agencies.

Sec. 2. NRS 439.630 is hereby amended to read as follows:

439.630 1. The Department shall:

(a) Conduct, or require the Grants Management Advisory Committee created by NRS 232.383 to conduct, public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(1) Promote public health;

(2) Improve health services for children, senior citizens and persons with disabilities;

(3) Reduce or prevent the abuse of and addiction to alcohol and drugs; and

(4) Offer other general or specific information on health care in this State.

(b) Establish a process to evaluate the health and health needs of the residents of this State and a system to rank the health problems of the residents of this State, including, without limitation, the specific health problems that are endemic to urban and rural communities, and report the results of the evaluation to the Legislative Committee on Health Care on an annual basis.

(c) ~~{Allocate not more than 30 percent of available revenues}~~ ***Subject to legislative appropriation, allocate money*** for direct expenditure by the Department to pay for prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. From the money allocated pursuant to this paragraph, the Department may subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.635 to 439.690, inclusive. The Department shall submit a quarterly report to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate regarding the general manner in which expenditures have been made pursuant to this paragraph.

(d) ~~{Allocate,}~~ ***Subject to legislative appropriation, allocate,*** by contract or grant, ***money*** for expenditure ~~{not more than 30 percent of available revenues for allocation}~~ by the Aging and Disability Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of informal caretakers;

(2) Transportation to new or existing services to assist senior citizens in living independently; and

(3) Care in the home which allows senior citizens to remain at home instead of in institutional care.

➤ The Aging and Disability Services Division of the Department shall consider recommendations from the Grants Management Advisory Committee concerning the independent living needs of senior citizens.

(e) Allocate \$200,000 of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Director to:

(1) Provide guaranteed funding to finance assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147; and

(2) Fund assisted living facilities that satisfy the criteria for certification set forth in NRS 319.147 and assisted living supportive services that are provided pursuant to the provisions of the home and community-based services waiver which are amended pursuant to NRS 422.2708.

➤ The Director shall develop policies and procedures for distributing the money allocated pursuant to this paragraph. Money allocated pursuant to this paragraph does not revert to the Fund at the end of the fiscal year.

~~(f) Allocate to the Health Division not more than 15 percent of available revenues for programs that are consistent with the guidelines established by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services relating to evidence-based best practices to prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco. In making allocations pursuant to this paragraph, the Health Division shall allocate the money, by contract or grant:~~

~~— (1) To the district board of health in each county whose population is 100,000 or more for expenditure for such programs in the respective county;~~

~~— (2) For such programs in counties whose population is less than 100,000; and~~

~~— (3) For statewide programs for tobacco cessation and other statewide services for tobacco cessation and for statewide evaluations of programs which receive an allocation of money pursuant to this paragraph, as determined necessary by the Health Division and the district boards of health.~~

~~— (g) Allocate,} **Subject to legislative appropriation, allocate,** by contract or grant, **money** for expenditure {not more than 10 percent of available revenues} for programs that improve *the* health {services for children,} *and well-being of residents of this State.*~~

~~{(h) Allocate,}~~

~~(g) **Subject to legislative appropriation, allocate,** by contract or grant, **money** for expenditure {not more than 10 percent of available revenues} for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Department shall, to the extent practicable, allocate the money evenly among the following three types of programs:~~

~~(1) Programs that provide respite care or relief of informal caretakers for persons with disabilities;~~

~~(2) Programs that provide positive behavioral supports to persons with disabilities; and~~

~~(3) Programs that assist persons with disabilities to live safely and independently in their communities outside of an institutional setting.~~

~~{(i) Allocate not more than 5 percent of available revenues}~~

(h) Subject to legislative appropriation, allocate money for direct expenditure by the Department to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and, to the extent money is available, other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive. The Department shall consider recommendations from the Grants Management Advisory Committee in carrying out the provisions of NRS 439.705 to 439.795, inclusive.

~~[(j)]~~ ***(i)*** Maximize expenditures through local, federal and private matching contributions.

~~[(k)]~~ ***(j)*** Ensure that any money expended from the Fund will not be used to supplant existing methods of funding that are available to public agencies.

~~[(l)]~~ ***(k)*** Develop policies and procedures for the administration and distribution of contracts, grants and other expenditures to state agencies, political subdivisions of this State, nonprofit organizations, universities, state colleges and community colleges. A condition of any such contract or grant must be that not more than 8 percent of the contract or grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals per biennium.

~~[(m)]~~ ***(l)*** To make the allocations required by paragraphs ~~[(f),]~~ (g) and (h):

- (1) Prioritize and quantify the needs for these programs;
- (2) Develop, solicit and accept applications for allocations;
- (3) Review and consider the recommendations of the Grants Management Advisory Committee submitted pursuant to NRS 232.385;
- (4) Conduct annual evaluations of programs to which allocations have been awarded; and

(5) Submit annual reports concerning the programs to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~[(n)]~~ ***(m)*** Transmit a report of all findings, recommendations and expenditures to the Governor, each regular session of the Legislature, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

~~[(Develop)]~~ ***After considering the recommendations submitted to the Director pursuant to subsection 6, develop a plan each biennium to determine the percentage of available money in the Fund for a Healthy Nevada to be allocated from the Fund for the purposes described in paragraphs (c), (d), (f), (g) and (h). The plan must be submitted as part of the proposed budget submitted to the Chief of the Budget Division of the Department of Administration pursuant to NRS 353.210.***

(o) On or before September 30 of each even-numbered year, submit to the Grants Management Advisory Committee created by NRS 232.383, the Nevada Commission on Aging created by NRS 427A.032 and the Nevada Commission on Services for Persons with Disabilities created by

NRS 427A.1211 a report on the funding plan submitted to the Chief of the Budget Division of the Department of Administration pursuant to paragraph (n).

2. The Department may take such other actions as are necessary to carry out its duties.

3. To make the allocations required by paragraph (d) of subsection 1, the Aging and Disability Services Division of the Department shall:

- (a) Prioritize and quantify the needs of senior citizens for these programs;
- (b) Develop, solicit and accept grant applications for allocations;
- (c) As appropriate, expand or augment existing state programs for senior citizens upon approval of the Interim Finance Committee;
- (d) Award grants, contracts or other allocations;
- (e) Conduct annual evaluations of programs to which grants or other allocations have been awarded; and

(f) Submit annual reports concerning the allocations made by the Aging and Disability Services Division pursuant to paragraph (d) of subsection 1 to the Governor, the Interim Finance Committee, the Legislative Committee on Health Care and any other committees or commissions the Director deems appropriate.

4. The Aging and Disability Services Division of the Department shall submit each proposed grant or contract which would be used to expand or augment an existing state program to the Interim Finance Committee for approval before the grant or contract is awarded. The request for approval must include a description of the proposed use of the money and the person or entity that would be authorized to expend the money. The Aging and Disability Services Division of the Department shall not expend or transfer any money allocated to the Aging and Disability Services Division pursuant to this section to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to senior citizens pursuant to NRS 439.635 to 439.690, inclusive, or to subsidize any portion of the cost of providing prescription drugs, pharmaceutical services and other benefits, including, without limitation, dental and vision benefits and hearing aids or other devices that enhance the ability to hear, to persons with disabilities pursuant to NRS 439.705 to 439.795, inclusive.

5. A veteran may receive benefits or other services which are available from the money allocated pursuant to this section for senior citizens or persons with disabilities to the extent that the veteran does not receive other benefits or services provided to veterans for the same purpose if the veteran qualifies for the benefits or services as a senior citizen or a person with a disability, or both.

6. [As used in this section, "available revenues" means the total revenues deposited in the Fund for a Healthy Nevada each year minus \$200,000.] **On or before June 30 of each even-numbered year, the Grants Management**

Advisory Committee, the Nevada Commission on Aging and the Nevada Commission on Services for Persons with Disabilities each shall submit to the Director a report that includes, without limitation, recommendations regarding community needs and priorities that are determined by each such entity after any public hearings held by the entity.

Sec. 3. The State Controller shall transfer to the Fund for a Healthy Nevada created by NRS 439.620, as soon as practicable on or after July 1, 2011, all money remaining in the Trust Fund for Public Health created by NRS 439.605 that has not been committed for expenditure.

Sec. 4. NRS 439.605, 439.610 and 439.615 are hereby repealed.

Sec. 5. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

439.605 Creation and administration of Fund; permissible investments; appropriation and expenditure of interest and income.

1. The Trust Fund for Public Health is hereby created in the State Treasury. The State Treasurer shall deposit in the Trust Fund:

(a) Ten percent of all money received by this State pursuant to any settlement entered into by the State of Nevada and a manufacturer of tobacco products; and

(b) Ten percent of all money recovered by this State from a judgment in a civil action against a manufacturer of tobacco products.

2. The State Treasurer shall administer the Trust Fund. As administrator of the Trust Fund, the State Treasurer, except as otherwise provided in this section:

(a) Shall maintain the financial records of the Trust Fund;

(b) Shall invest the money in the Trust Fund as the money in other state funds is invested;

(c) Shall manage any account associated with the Trust Fund;

(d) Shall maintain any instruments that evidence investments made with the money in the Trust Fund;

(e) May contract with vendors for any good or service that is necessary to carry out the provisions of this section; and

(f) May perform any other duties necessary to administer the Trust Fund.

3. In addition to the investments authorized pursuant to paragraph (b) of subsection 2, the State Treasurer may, except as otherwise provided in subsection 4, invest the money in the Trust Fund in:

(a) 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 Trust Fund;

(4) Except for investments made pursuant to paragraph (c), the amount of an investment in a single corporation is not greater than 3 percent of the book value of the assets of the Trust Fund; and

(5) Except for investments made pursuant to paragraph (c), the total amount of shares owned by the Trust Fund is not greater than 5 percent of the outstanding stock of a single corporation.

(b) 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 Trust Fund.

(c) Mutual funds or common trust funds that consist of any combination of the investments authorized pursuant to paragraph (b) of subsection 2 and paragraphs (a) and (b) of this subsection.

4. The State Treasurer shall not invest any money in the Trust Fund pursuant to subsection 3 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 subsection 3. 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.

5. The interest and income earned on the money in the Trust Fund is hereby appropriated to the Board of Trustees of the Trust Fund for Public Health and must, after deducting any applicable charges, be credited to the Fund and accounted for separately. All claims against the Fund must be paid as other claims against the State are paid.

6. Only the interest and income earned on the money in the Trust Fund may be expended. Such expenditures may be made for:

(a) Grants made pursuant to NRS 439.615 for:

(1) The promotion of public health and programs for the prevention of disease or illness;

(2) Research on issues related to public health; and

(3) The provision of direct health care services to children and senior citizens;

(b) Expenses related to the operation of the Board of Trustees of the Trust Fund;

(c) Actual costs incurred by the Health Division for providing administrative assistance to the Board, but in no event may more than 2 percent of the money in the Fund be used for administrative expenses or other indirect costs; and

(d) Any other purpose authorized by the Legislature.

7. The money in the Trust Fund remains in the Fund and does not revert to the State General Fund at the end of any fiscal year.

439.610 Board of Trustees of Fund: Creation; membership; election of Chair; meetings; quorum; compensation of members; administrative support.

1. The Board of Trustees of the Trust Fund for Public Health is hereby created.

2. The Board consists of 11 members composed of:

(a) The Administrator or a designee of the Administrator.

(b) The State Health Officer or a designee of the State Health Officer.

(c) The Chair of the Nevada Commission on Aging or a designee of the Chair.

(d) The Chair of the State Board of Health or a designee of the Chair.

(e) The Chair of the Advisory Board on Maternal and Child Health or a designee of the Chair.

(f) The superintendent of schools of the school district in this State that has the highest number of enrolled pupils or a designee of that superintendent.

(g) The county health officers of the two most populous counties in this State.

(h) One member appointed by the Nevada Association of Counties, or its successor, who serves as a county health officer in a rural area of this State.

(i) A representative of the University of Nevada School of Medicine appointed by the Dean of the School of Medicine.

(j) One member appointed by the Governor who possesses knowledge, skill and experience in providing health care services.

3. The term of a member of the Board who is appointed pursuant to paragraph (h), (i) or (j) of subsection 2 is 4 years.

4. The Board shall annually elect a Chair from among its members. The Board shall meet at least quarterly. A majority of the members constitutes a quorum, and a majority of those present must concur in any decision.

5. Each member of the Board serves without compensation. While engaged in the business of the Board, each member is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses of:

(a) A member of the Board who is an officer or employee of this State or a local government thereof must be paid by the state agency or the local government.

(b) Any other member of the Board must be paid from the interest and income earned on the money in the Trust Fund.

6. Each member of the Board who is an officer or employee of this State or a local government must be relieved from his or her duties without loss of his or her regular compensation so that the officer or employee may perform his or her duties relating to the Board 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 Board to:

(a) Make up the time he or she is absent from work to fulfill his or her obligations as a member of the Board; or

(b) Take annual leave or compensatory time for the absence.

7. The Health Division shall provide such administrative support to the Board as is required to carry out the duties of the Board.

439.615 Board of Trustees of Fund: Powers and duties.

1. The Board of Trustees shall:

(a) In accordance with the provisions set forth in subsection 6 of NRS 439.605, develop policies and procedures for the expenditure of the interest and income earned on the money in the Trust Fund for Public Health.

(b) After deducting authorized expenses, annually make grants in a cumulative amount equal to the interest and income earned on the money in the Trust Fund for Public Health.

(c) Develop forms for requests for proposals for grants and disseminate information about the grant program. A condition of each such grant must be that not more than 8 percent of the grant may be used for administrative expenses and other indirect costs.

(d) Publish an annual report of the activities of the Board and the grants made by the Board. A copy of each such report must be transmitted to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

2. The Board may take such other actions as are necessary to carry out its duties and the provisions of this section and NRS 439.605 and 439.610.

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 makes certain that the public has input into the plan to spend the tobacco settlement money from the civil action against tobacco manufacturers. On page 6, there is specific language from line 24 through line 29 that uses already established committees and commissions to review the plan and to provide input to the Department of Health and Human Services.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that upon return from reprint, Senate Bill No. 421 be taken from General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 53.

Bill read third time.

Roll call on Assembly Bill No. 53:

YEAS—19.

NAYS—Kieckhefer, Leslie—2.

Assembly Bill No. 53 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 78.

Bill read third time.

Remarks by Senator Roberson.

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

Thank you, Mr. President. 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. As I said when we voted on this the first time, this will increase fees on our smallest businesses by 260 percent. Many, if not everyone, in this body has campaigned, in part, on being a friend to small business. Now is the time to prove it. I encourage you to vote "no" on Assembly Bill No. 78.

Roll call on Assembly Bill No. 78:

YEAS—11.

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

Assembly Bill No. 78 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 80.

Bill read third time.

Remarks by Senator Parks.

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

Assembly Bill No. 80 clarifies the reporting requirements on the administration and operation of the Public Employees' Benefit Program and repeals a redundant provision. The bill updates statutory provisions to comply with the federal Patient Protection and Affordable Care Act. The provisions permitting exclusion of pre-existing conditions by grandfathered plans expire at the time that federal law no longer permits such exclusions.

Roll call on Assembly Bill No. 80:

YEAS—21.

NAYS—None.

Assembly Bill No. 80 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 223.

Bill read third time.

Roll call on Assembly Bill No. 223:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—9.

Assembly Bill No. 223 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 452.

Bill read third time.

Remarks by Senator Roberson.

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

I would like to thank the body's indulgence for letting us vote on this a second time. I now proudly support Assembly Bill No. 452.

Roll call on Assembly Bill No. 452:

YEAS—21.

NAYS—None.

Assembly Bill No. 452 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 260.

Bill read third time.

Roll call on Assembly Bill No. 260:

YEAS—12.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, McGinness, Rhoads, Roberson, Settelmeyer—9.

Assembly Bill No. 260 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 11:03 p.m.

SENATE IN SESSION

At 11:30 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Education, to which were referred Assembly Bills Nos. 225, 229, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that all necessary rules be suspended, that the reading of the bills so far be considered to have fulfilled the requirement for second reading, and that Assembly Bills Nos. 225, 229, be declared emergency measures under the Constitution and be placed on third reading for final passage on this legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 225.

Bill read third time.

The following amendment was proposed by the Committee on Education: Amendment No. 860.

"SUMMARY—Requires an additional probationary period for certain teachers and administrators. (BDR 34-876)"

"AN ACT relating to educational personnel; requiring certain teachers and administrators who receive unsatisfactory evaluations to serve an additional probationary period; authorizing certain employees to request an expedited hearing under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that each teacher and administrator who is employed by a school district in this State must serve a 2-year probationary period, unless the second year of the probationary period is waived by the superintendent of schools of the school district or the superintendent's designee. A probationary employee who completes his or her probationary period and receives a notice of reemployment from the school district becomes a postprobationary employee in the ensuing year of employment. (NRS 391.3197) Existing law also provides that a postprobationary teacher or administrator must be evaluated at least once each year. (NRS 391.3125, 391.3127) **Section 1** of this bill provides that a postprobationary teacher or administrator who receives an unsatisfactory evaluation , or any other equivalent evaluation which designates his or her overall performance as below average, for 2 consecutive school years shall be deemed to be a probationary employee and must serve an additional probationary period. **Section 4** of this bill provides that the provisions of **section 1** ~~do not apply if~~ are not superseded by the terms of a collective bargaining agreement. **Section 5** of this bill authorizes a teacher or administrator who is deemed to be a probationary employee pursuant to **section 1** and who receives notice that he or she will be dismissed before the completion of the current school

year to request an expedited hearing pursuant to the expedited hearing procedures established by the American Arbitration Association.

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:

A postprobationary employee who receives an unsatisfactory evaluation pursuant to NRS 391.3125 or 391.3127, as applicable, or any other equivalent evaluation designating his or her overall performance as below average, for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.

Sec. 2. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, ***and section 1 of this act***, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, ***and section 1 of this act*** is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment. ***The term does not include a person who is deemed to be a probationary employee pursuant to section 1 of this act.***

6. "Probationary employee" means ~~an~~ :

(a) An administrator or a teacher who is employed for the period set forth in NRS 391.3197 ~~to~~ ; ***and***

(b) A person who is deemed to be a probationary employee pursuant to section 1 of this act.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 3. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, **and section 1 of this act** do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. The provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

3. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, **and section 1 of this act** for demotion, suspension or dismissal apply to them.

Sec. 4. NRS 391.3116 is hereby amended to read as follows:

391.3116 ~~The~~ **Excluding the provisions of section 1 of this act, the** provisions of NRS 391.311 to 391.3197, inclusive, ~~and section 1 of this act~~ do not apply to a teacher, administrator, or other licensed employee who has entered into a contract with the board negotiated pursuant to chapter 288 of NRS if the contract contains separate provisions relating to the board's right to dismiss or refuse to reemploy the employee or demote an administrator.

Sec. 5. NRS 391.317 is hereby amended to read as follows:

391.317 1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, or dismiss or demote a probationary employee, the superintendent shall give written notice to the employee, by registered or certified mail, of the superintendent's intention to make the recommendation.

2. The notice must:

- (a) Inform the licensed employee of the grounds for the recommendation.
- (b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer ~~+~~ **pursuant to NRS 391.315 to**

391.3194, inclusive, or if the employee is deemed to be a probationary employee pursuant to section 1 of this act and dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3.

(c) Refer to chapter 391 of NRS.

3. If an employee who is deemed to be a probationary employee pursuant to section 1 of this act receives notice pursuant to subsection 1 that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.3161, 391.3192 and 391.3193 do not apply.

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. 728 makes the following changes. First, it specifies that the term "year" in the bill refers to a school year. Second, it clarifies that the provisions of the bill concerning post-probationary employees serving an additional probationary period due to unsatisfactory evaluations, do not apply to contracts negotiated pursuant to the collective bargaining provisions of Chapter 288.

Amendment adopted.

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

Assembly Bill No. 229.

Bill read third time.

The following amendment was proposed by the Committee on Education:

Amendment No. 861.

"SUMMARY—Revises provisions governing the accountability and performance of public schools and educational personnel. (BDR 34-515)"

"AN ACT relating to education; revising the annual reports of accountability information for public schools; requiring the board of trustees of each school district to establish and implement a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators; removing probationary teachers and probationary administrators from the applicability of certain provisions governing certain disciplinary measures by school districts; revising provisions governing the demotion, suspension, dismissal and nonreemployment of certain teachers and administrators; expanding the grounds for immediate dismissal and refusal to reemploy; revising the designations of the overall performance of teachers and administrators required by the policies for evaluations of each school district; authorizing a probationary or postprobationary employee to request an expedited hearing under certain circumstances; revising provisions governing the probationary periods of teachers and administrators and the evaluations of

probationary teachers and probationary administrators; **revising provisions governing the reduction in the workforce of a school district;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Education and the board of trustees of each school district to prepare an annual report of accountability information for public schools. (NRS 385.3469, 385.347) **Sections 1 and 2** of this bill expand the requirements of the annual reports of accountability to include a reporting of the number and percentages of administrators, teachers and ~~support~~ **other** staff for each elementary school, middle school or junior high school, and high school and for each school district in the State.

Section 8 of this bill requires the board of trustees of each school district to: (1) establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators; and (2) implement the program commencing with the 2014-2015 school year.

Existing law requires that the board of trustees of each school district develop a policy for the evaluation of teachers and administrators pursuant to which an individual teacher or administrator is designated as "satisfactory" or "unsatisfactory." (NRS 391.3125, 391.3127) Effective July 1, 2013, **sections 14 and 16** of this bill revise the policies for evaluations to require the designation of an individual teacher or administrator as "highly effective," "effective," "minimally effective" or "ineffective ~~+~~" **and provide that the policies must require that certain information on pupil achievement which is maintained by the automated system of accountability information for Nevada account for at least 50 percent of the evaluations.**

Section 9 of this bill provides that if a written evaluation of a probationary teacher or probationary administrator states that the overall performance of the teacher or administrator has been designated as "unsatisfactory": (1) the evaluation must include a written statement that the contract of the person so evaluated may not be renewed for the next school year and that the employee may request reasonable assistance in correcting the deficiencies identified in the evaluation; and (2) the person must acknowledge in writing that he or she has received and understands the written statement. **Section 20** of this bill amends **section 9**, effective July 1, 2013, when the four types of designations for the evaluations of teachers and administrators will take effect.

Existing law sets forth certain rights and responsibilities relating to disciplinary measures taken by school districts with respect to probationary and postprobationary teachers and administrators. (NRS 391.311-391.3197) **Section 11** of this bill removes probationary teachers and new employees hired as probationary administrators from the applicability of the provisions governing admonition, demotion, suspension, dismissal and nonreemployment.

Section 12 of this bill revises the grounds for which a teacher may be suspended, dismissed or not reemployed or for which an administrator may

be demoted, suspended, dismissed or not reemployed to include gross misconduct.

Section 13 of this bill provides that a postprobationary teacher who receives an unsatisfactory evaluation must be evaluated three times in the immediately succeeding school year. Effective July 1, 2013, section 14 of this bill provides that a postprobationary teacher who receives an evaluation of "minimally effective" or "ineffective" must be evaluated three times in the immediately succeeding school year.

Section 17 of this bill expands the grounds for which a licensed employee is subject to immediate dismissal or a refusal to reemploy without first receiving a written admonition to include gross misconduct.

Section 18 of this bill authorizes a postprobationary employee who receives notice that he or she will be dismissed before completion of the current school year to request an expedited hearing pursuant to the expedited procedures established by the American Arbitration Association.

Under existing law, a probationary teacher and a probationary administrator serve two 1-year periods as a probationary employee. If the employee receives satisfactory evaluations in the first probationary year, the second probationary year must be waived and the person is entitled to postprobationary employment with the school district. (NRS 391.3197) Section 19 of this bill revises the probationary period from two 1-year periods to three 1-year periods, without a waiver of any of the probationary years. **Section 19 also provides that a probationary employee who receives notice that he or she will be dismissed before the completion of the current school year may request an expedited hearing pursuant to the procedures established by the American Arbitration Association or its successor organization.**

Section 19.6 provides that a board of trustees of a school district that determines a reduction in the existing workforce of the licensed educational personnel in the school district is necessary must not base the decision to lay off a teacher or an administrator solely on the seniority of the teacher or administrator and may consider certain other factors.

Section 1 of Assembly Bill No. 225 of this session provides that if a postprobationary employee receives an unsatisfactory evaluation on an evaluation conducted pursuant to NRS 391.3125 or 391.3127, as applicable, or any other equivalent evaluation system which designates his or her overall performance as below average for 2 consecutive school years, the employee shall be deemed a probationary employee and serve an additional probationary period. Section 20.5 of this bill amends section 1 of Assembly Bill No. 225 to provide that a postprobationary employee must serve an additional probationary period if he or she receives an evaluation for 2 consecutive school years as: (1) minimally effective; (2) ineffective; (3) minimally effective during 1 year of the 2-year consecutive period and ineffective during the other year of the

period; or (4) if evaluated pursuant to any other system of evaluation, any designation which indicates that the overall performance of the employee is below average. Section 23 of this bill provides that section 20.5 becomes effective if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.

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) *The total number of persons employed by each school district in this State, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or ~~support~~ other staff, ~~and~~ and must not be reported in more than one category. In addition to the total number of persons employed by each school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph:*

(1) *"Administrator" means a person ~~employed primarily to supervise support~~ who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, ~~in addition to providing administrative services.~~ and who is not classified by the board of trustees of a school district as a professional-technical employee.*

(2) *~~"Support"~~ "Other staff" means all persons who are not reported as administrators or teachers ~~and~~, including, without limitation:*

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of a school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) *"Teacher" means a person licensed pursuant to chapter 391 of NRS ~~primarily to provide~~ who is classified by the board of trustees of a school district:*

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils ~~for~~; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(I) 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.

~~{(+)}~~ **(m)** 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)}~~ **(n)** 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)}~~ **(o)** 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)}~~ **(p)** 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)}~~ **(q)** 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)}~~ **(r)** 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)}~~ **(s)** 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)}~~ **(t)** 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)}~~ **(u)** 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}}~~ **(v)** 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}}~~ **(w)** 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}}~~ **(x)** Each source of funding for this State to be used for the system of public education.

~~{{x}}~~ **(y)** 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}}~~ **(z)** 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}}~~ **(aa)** 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}}~~ **(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 received:

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

~~{{bb}}~~ **(cc)** 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.

~~{{ee}}~~ **(dd)** 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}}~~ **(ee)** 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}}~~ **(ff)** 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}}~~ **(gg)** 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}}~~ **(hh)** 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.

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) *The total number of persons employed for each elementary school, middle school or junior high school, and high school in the district, including, without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or ~~support~~ other staff ~~and~~ and must not be reported in more than one category. In addition to the total number of persons employed by each school in each category, the report must include the number of employees in each of the three categories for each school expressed as a percentage of the total number of persons employed by the school. As used in this paragraph:*

(1) *"Administrator" means a person ~~employed primarily to supervise support~~ who spends at least 50 percent of his or her work year supervising other staff or licensed personnel, or both, ~~in addition to providing administrative services.~~ and who is not classified by the board of trustees of the school district as a professional-technical employee.*

(2) *~~"Support"~~ "Other staff" means all persons who are not reported as administrators or teachers ~~and~~, including, without limitation:*

(I) School counselors, school nurses and other employees who spend at least 50 percent of their work year providing emotional support, noninstructional guidance or medical support to pupils;

(II) Noninstructional support staff, including, without limitation, janitors, school police officers and maintenance staff; and

(III) Persons classified by the board of trustees of the school district as professional-technical employees, including, without limitation, technical employees and employees on the professional-technical pay scale.

(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is ~~employed primarily to provide~~ classified by the board of trustees of the school district;

(I) As a teacher and who spends at least 50 percent of his or her work year providing instruction or discipline to pupils ~~+~~; or

(II) As instructional support staff, who does not hold a supervisory position and who spends not more than 50 percent of his or her work year providing instruction to pupils. Such instructional support staff includes, without limitation, librarians and persons who provide instructional support.

(e) The total number of persons employed by the school district, including without limitation, each charter school in the district. Each such person must be reported as either an administrator, a teacher or ~~support~~ other staff ~~+~~ and must not be reported in more than one category. In addition to the total number of persons employed by the school district in each category, the report must include the number of employees in each of the three categories expressed as a percentage of the total number of persons employed by the school district. As used in this paragraph ~~+~~

~~(1) "Administrator" means a person employed primarily to supervise support staff or licensed personnel, or both, in addition to providing administrative services.~~

~~(2) "Support staff" means all persons who are not reported as administrators or teachers.~~

~~(3) "Teacher" means a person licensed pursuant to chapter 391 of NRS who is employed primarily to provide instruction to pupils~~+~~, "administrator," "other staff" and "teacher" have the meanings ascribed to them in paragraph (d).~~

(f) 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)]~~ (g) 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)]~~ (h) 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)]~~ (i) 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)]~~ (j) 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.

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

~~[(l)]~~ **(n)** 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)]~~ **(o)** Records of the suspension and expulsion of pupils required or authorized pursuant to NRS 392.466 and 392.467.

~~[(n)]~~ **(p)** 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)]~~ **(q)** 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)]~~ **(r)** 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)]~~ **(s)** Each source of funding for the school district.

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

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

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

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

(2) An adjusted diploma.

(3) A certificate of attendance.

~~{(v)}~~ **(x)** 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)}~~ **(y)** 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)}~~ **(z)** 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)}~~ **(aa)** 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)}~~ **(bb)** 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}}~~ **(cc)** 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}}~~ **(dd)** 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.

~~{{ee}}~~ **(ee)** 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}}~~ **(ff)** 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)}} (gg)~~ 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)}} (k)~~ 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)}} (i)~~ 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. § 801(23).

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

Sec. 3. NRS 385.36129 is hereby amended to read as follows:

385.36129 1. In addition to the duties prescribed in NRS 385.36127, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school, including, without limitation, an evaluation of:

- (1) The appropriateness of the plan for the school; and
- (2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils or written recommendations for revisions to the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school, submitted by the support team pursuant to NRS 385.36127;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state

and the school district in which the school is located, including, without limitation:

- (1) The name of the program;
- (2) The date on which the program was purchased and the date on which the program was carried out by the school;
- (3) The percentage of personnel at the school who were trained regarding the use of the program;
- (4) The satisfaction of the personnel at the school with the program; and
- (5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

- (1) The financial resources of the school;
- (2) The administrative and educational personnel of the school;
- (3) The curriculum of the school;
- (4) The facilities available at the school, including the availability and accessibility of educational technology; and
- (5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; and

(7) A description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs ~~[(k) to (n)]~~ **(m) to (p)**, inclusive, of subsection 2 of NRS 385.347.

2. On or before November 1, the support team shall submit a copy of the final written report to the:

- (a) Principal of the school;
- (b) Board of trustees of the school district in which the school is located;
- (c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➡ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

Sec. 4. NRS 385.620 is hereby amended to read as follows:

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph ~~{(j)}~~ *(l)* of subsection 2 of NRS 385.347;

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 5. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➡ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. Before a committee to form a charter school may submit an application to the board of trustees of a school district, the Subcommittee on Charter Schools, the State Board or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the Department by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive.

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;
 (2) Encouraging the use of effective methods of teaching;
 (3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;
 (5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.
 (c) The projected enrollment of pupils in the charter school.
 (d) The proposed dates of enrollment for the charter school.
 (e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.
 (f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.
 (i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and

finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125 ~~†~~ **and section 9 of this act**. If the procedure is different from the procedure prescribed in NRS 391.3125 ~~†~~ **and section 9 of this act**, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125 ~~†~~ **and section 9 of this act**.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

(p) A statement of whether the charter school will enroll pupils who are in a particular category of at-risk pupils before enrolling other children who are eligible to attend the charter school pursuant to NRS 386.580 and the method for determining eligibility for enrollment in each such category of at-risk pupils served by the charter school.

3. The Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department denies an application, the Department shall include in the written notice the reason for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➔ The term does not include a person who is employed as a substitute teacher.

Sec. 6. NRS 388.795 is hereby amended to read as follows:

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

- (a) Plans that have been adopted by the Department and the school districts in this State;
- (b) Plans that have been adopted in other states;
- (c) The information reported pursuant to paragraph ~~{{t}}~~ (v) of subsection 2 of NRS 385.347;
- (d) The results of the assessment of needs conducted pursuant to subsection 6; and
- (e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

- (a) Incorporate educational technology into the public schools of this State;
- (b) Increase the number of pupils in the public schools of this State who have access to educational technology;
- (c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;
- (d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and
- (e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

- (a) Administrative support;
- (b) Equipment; and
- (c) Office space,

↪ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

- (a) The State Board.
- (b) The board of trustees of each school district.
- (c) The superintendent of schools of each school district.
- (d) The Department.

5. The Commission shall:

- (a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to

ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➤ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The

advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 7. Chapter 391 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

Sec. 8. 1. *The board of trustees of each school district shall:*

(a) Establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators which must be negotiated pursuant to chapter 288 of NRS; and

(b) Commencing with the 2014-2015 school year, implement the program established pursuant to paragraph (a).

2. *The program of performance pay and enhanced compensation established by a school district pursuant to subsection 1 must have as its primary focus the improvement in the academic achievement of pupils and must give appropriate consideration to implementation in at-risk schools. In addition, the program may include, without limitation, the following components:*

(a) Career leadership advancement options to maximize the retention of teachers in the classroom and the retention of administrators;

(b) Professional development;

(c) Group incentives; and

(d) Multiple assessments of individual teachers and administrators, with primary emphasis on individual pupil improvement and growth in academic achievement, including, without limitation, portfolios of instruction, leadership and professional growth, and other appropriate measures of teacher and administrator performance which must be considered.

Sec. 9. 1. *If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as "unsatisfactory":*

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive two evaluations for this school year which designate your performance as 'unsatisfactory,' and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the ~~superintendent and the~~ probationary teacher or probationary administrator, as applicable ~~for~~, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 10. NRS 391.311 is hereby amended to read as follows:

391.311 As used in NRS 391.311 to 391.3197, inclusive, *and section 9 of this act*, unless the context otherwise requires:

1. "Administrator" means any employee who holds a license as an administrator and who is employed in that capacity by a school district.

2. "Board" means the board of trustees of the school district in which a licensed employee affected by NRS 391.311 to 391.3197, inclusive, *and section 9 of this act* is employed.

3. "Demotion" means demotion of an administrator to a position of lesser rank, responsibility or pay and does not include transfer or reassignment for purposes of an administrative reorganization.

4. "Immorality" means:

(a) An act forbidden by NRS 200.366, 200.368, 200.400, 200.508, 201.180, 201.190, 201.210, 201.220, 201.230, 201.265, 201.540, 201.560, 207.260, 453.316 to 453.336, inclusive, 453.337, 453.338, 453.3385 to 453.3405, inclusive, 453.560 or 453.562; or

(b) An act forbidden by NRS 201.540 or any other sexual conduct or attempted sexual conduct with a pupil enrolled in an elementary or secondary school. As used in this paragraph, "sexual conduct" has the meaning ascribed to it in NRS 201.520.

5. "Postprobationary employee" means an administrator or a teacher who has completed the probationary period as provided in NRS 391.3197 and has been given notice of reemployment.

6. "Probationary employee" means an administrator or a teacher who is employed for the period set forth in NRS 391.3197.

7. "Superintendent" means the superintendent of a school district or a person designated by the board or superintendent to act as superintendent during the absence of the superintendent.

8. "Teacher" means a licensed employee the majority of whose working time is devoted to the rendering of direct educational service to pupils of a school district.

Sec. 11. NRS 391.3115 is hereby amended to read as follows:

391.3115 1. The demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3197, inclusive, **and section 9 of this act** do not apply to:

- (a) Substitute teachers; or
- (b) Adult education teachers.

2. *The admonition, demotion, suspension, dismissal and nonreemployment provisions of NRS 391.311 to 391.3194, inclusive, do not apply to:*

(a) A probationary teacher. The policy for evaluations prescribed in NRS 391.3125 and section 9 of this act applies to a probationary teacher.

(b) A new employee who is employed as a probationary administrator. The policy for evaluations prescribed in NRS 391.3127 and section 9 of this act applies to a probationary administrator.

3. *The admonition, demotion and suspension provisions of NRS 391.311 to 391.3194, inclusive, do not apply to a postprobationary teacher who is employed as a probationary administrator with respect to his or her employment in the administrative position. The policy for evaluations prescribed in NRS 391.3127 and section 9 of this act applies to a probationary administrator.*

4. The provisions of NRS 391.311 to 391.3194, inclusive, ***and section 9 of this act*** do not apply to a teacher whose employment is suspended or terminated pursuant to subsection 3 of NRS 391.120 or NRS 391.3015 for failure to maintain a license in force.

~~{3-}~~ 5. A licensed employee who is employed in a position fully funded by a federal or private categorical grant or to replace another licensed employee during that employee's leave of absence is employed only for the duration of the grant or leave. Such a licensed employee and licensed employees who are employed on temporary contracts for 90 school days or less, or its equivalent in a school district operating under an alternative schedule authorized pursuant to NRS 388.090, to replace licensed employees whose employment has terminated after the beginning of the school year are entitled to credit for that time in fulfilling any period of probation and during that time the provisions of NRS 391.311 to 391.3197, inclusive, ***and section 9 of this act*** for demotion, suspension or dismissal apply to them.

Sec. 12. NRS 391.312 is hereby amended to read as follows:

391.312 1. A teacher may be suspended, dismissed or not reemployed and an administrator may be demoted, suspended, dismissed or not reemployed for the following reasons:

- (a) Inefficiency;
- (b) Immorality;
- (c) Unprofessional conduct;

- (d) Insubordination;
- (e) Neglect of duty;
- (f) Physical or mental incapacity;
- (g) A justifiable decrease in the number of positions due to decreased enrollment or district reorganization;
- (h) Conviction of a felony or of a crime involving moral turpitude;
- (i) Inadequate performance;
- (j) Evident unfitness for service;
- (k) Failure to comply with such reasonable requirements as a board may prescribe;
- (l) Failure to show normal improvement and evidence of professional training and growth;
- (m) Advocating overthrow of the Government of the United States or of the State of Nevada by force, violence or other unlawful means, or the advocating or teaching of communism with the intent to indoctrinate pupils to subscribe to communistic philosophy;
- (n) Any cause which constitutes grounds for the revocation of a teacher's license;
- (o) Willful neglect or failure to observe and carry out the requirements of this title;
- (p) Dishonesty;
- (q) Breaches in the security or confidentiality of the questions and answers of the achievement and proficiency examinations that are administered pursuant to NRS 389.015;
- (r) Intentional failure to observe and carry out the requirements of a plan to ensure the security of examinations adopted pursuant to NRS 389.616 or 389.620; ~~{or}~~
- (s) An intentional violation of NRS 388.5265 or 388.527 ~~{;}~~ ; **or**
- (t) **Gross misconduct.**

2. In determining whether the professional performance of a licensed employee is inadequate, consideration must be given to the regular and special evaluation reports prepared in accordance with the policy of the employing school district and to any written standards of performance which may have been adopted by the board.

3. *As used in this section, "gross misconduct" includes any act or omission that is in wanton, willful, reckless or deliberate disregard of the interests of a school or school district or a pupil thereof.*

Sec. 13. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance may be determined to

be satisfactory or unsatisfactory. The policy may include an evaluation by the teacher, pupils, administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

↳ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

4. ~~Whenever an administrator charged with the evaluation of a probationary employee believes the employee will not be reemployed for the second year of the probationary period or the school year following the probationary period, the administrator shall bring the matter to the employee's attention in a written document which is separate from the evaluation not later than March 1 of the current school year. The notice must include the reasons for the potential decision not to reemploy or refer to the evaluation in which the reasons are stated. Such a notice is not required if the probationary employee has received a letter of admonition during the current school year.~~

—5.} ~~Each~~ **Except as otherwise provided in this subsection, each** postprobationary teacher must be evaluated at least once each year. **If a postprobationary teacher receives an unsatisfactory evaluation, the postprobationary teacher must be evaluated three times in the immediately succeeding school year.** An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes.

~~16.}~~ **If a postprobationary teacher is evaluated three times in a school year and he or she receives an unsatisfactory evaluation on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If**

a postprobationary teacher requests that his or her third evaluation be conducted by another administrator, that administrator must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

5. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

(a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, recommendations for improvements in the performance of the teacher;

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

~~{7-}~~ 6. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 14. NRS 391.3125 is hereby amended to read as follows:

391.3125 1. It is the intent of the Legislature that a uniform system be developed for objective evaluation of teachers and other licensed personnel in each school district.

2. Each board, following consultation with and involvement of elected representatives of the teachers or their designees, shall develop a policy for objective evaluations in narrative form. The policy must set forth a means according to which an employee's overall performance ~~{may be}~~ is determined to be ~~{satisfactory or unsatisfactory.}~~ ***highly effective, effective, minimally effective or ineffective.*** **The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for at least 50 percent of the evaluation.** The policy may include an evaluation by the teacher, pupils,

administrators or other teachers or any combination thereof. In a similar manner, counselors, librarians and other licensed personnel must be evaluated on forms developed specifically for their respective specialties. A copy of the policy adopted by the board must be filed with the Department. The primary purpose of an evaluation is to provide a format for constructive assistance. Evaluations, while not the sole criterion, must be used in the dismissal process.

3. A conference and a written evaluation for a probationary employee must be concluded not later than:

- (a) December 1;
- (b) February 1; and
- (c) April 1,

↳ of each school year of the probationary period, except that a probationary employee assigned to a school that operates all year must be evaluated at least three times during each 12 months of employment on a schedule determined by the board. An administrator charged with the evaluation of a probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 45 consecutive minutes.

4. Except as otherwise provided in this subsection, each postprobationary teacher must be evaluated at least once each year. If a postprobationary teacher receives an ~~unsatisfactory~~ evaluation ~~or~~ **designating his or her overall performance as minimally effective or ineffective,** the postprobationary teacher must be evaluated three times in the immediately succeeding school year. An administrator charged with the evaluation of a postprobationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period, with at least one observation during that 60-minute evaluation period consisting of at least 30 consecutive minutes. If a postprobationary teacher is evaluated three times in a school year and he or she receives an ~~unsatisfactory~~ evaluation **designating his or her overall performance as minimally effective or ineffective** on the first or second evaluation, or both evaluations, the postprobationary teacher may request that the third evaluation be conducted by another administrator. If a postprobationary teacher requests that his or her third evaluation be conducted by another administrator, that administrator must be:

- (a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and
- (b) Selected by the postprobationary teacher from a list of three candidates submitted by the superintendent.

5. The evaluation of a probationary teacher or a postprobationary teacher must include, without limitation:

- (a) An evaluation of the classroom management skills of the teacher;

(b) A review of the lesson plans and the work log or grade book of pupils prepared by the teacher;

(c) An evaluation of whether the curriculum taught by the teacher is aligned with the standards of content and performance established pursuant to NRS 389.520, as applicable for the grade level taught by the teacher;

(d) An evaluation of whether the teacher is appropriately addressing the needs of the pupils in the classroom, including, without limitation, special educational needs, cultural and ethnic diversity, the needs of pupils enrolled in advanced courses of study and the needs of pupils who are limited English proficient;

(e) If necessary, recommendations for improvements in the performance of the teacher;

(f) A description of the action that will be taken to assist the teacher in correcting any deficiencies reported in the evaluation; and

(g) A statement by the administrator who evaluated the teacher indicating the amount of time that the administrator personally observed the performance of the teacher in the classroom.

6. The teacher must receive a copy of each evaluation not later than 15 days after the evaluation. A copy of the evaluation and the teacher's response must be permanently attached to the teacher's personnel file. Upon the request of a teacher, a reasonable effort must be made to assist the teacher to correct those deficiencies reported in the evaluation of the teacher for which the teacher requests assistance.

Sec. 15. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance may be determined to be satisfactory or unsatisfactory. The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. Each administrator must be evaluated in writing at least once a year.

3. ***Each probationary administrator is subject to the provisions of NRS 391.3197 and section 9 of this act.***

4. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent.

The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 16. NRS 391.3127 is hereby amended to read as follows:

391.3127 1. Each board, following consultation with and involvement of elected representatives of administrative personnel or their designated representatives, shall develop an objective policy for the objective evaluation of administrators in narrative form. The policy must set forth a means according to which an administrator's overall performance ~~{may be}~~ *is* determined to be ~~{satisfactory or unsatisfactory.}~~ *highly effective, effective, minimally effective or ineffective. The policy must require that the information maintained pursuant to paragraphs (c), (d) and (e) of subsection 1 of NRS 386.650 account for at least 50 percent of the evaluation.* The policy may include an evaluation by the administrator, superintendent, pupils or other administrators or any combination thereof. A copy of the policy adopted by the board must be filed with the Department and made available to the Commission.

2. Each administrator must be evaluated in writing at least once a year.

3. Each probationary administrator is subject to the provisions of NRS 391.3197 and section 9 of this act.

4. Before a superintendent transfers or assigns an administrator to another administrative position as part of an administrative reorganization, if the transfer or reassignment is to a position of lower rank, responsibility or pay, the superintendent shall give written notice of the proposed transfer or assignment to the administrator at least 30 days before the date on which it is to be effective. The administrator may appeal the decision of the superintendent to the board by requesting a hearing in writing to the president of the board within 5 days after receiving the notice from the superintendent. The board shall hear the matter within 10 days after the president receives the request, and shall render its decision within 5 days after the hearing. The decision of the board is final.

Sec. 17. NRS 391.313 is hereby amended to read as follows:

391.313 1. Whenever an administrator charged with supervision of a licensed employee believes it is necessary to admonish the employee for a reason that the administrator believes may lead to demotion or dismissal or may cause the employee not to be reemployed under the provisions of NRS 391.312, the administrator shall:

(a) Except as otherwise provided in subsection 3, bring the matter to the attention of the employee involved, in writing, stating the reasons for the admonition and that it may lead to the employee's demotion, dismissal or a refusal to reemploy him or her, and make a reasonable effort to assist the employee to correct whatever appears to be the cause for the employee's potential demotion, dismissal or a potential recommendation not to reemploy him or her; and

(b) Except as otherwise provided in NRS 391.314, allow reasonable time for improvement, which must not exceed 3 months for the first admonition.

➤ The admonition must include a description of the deficiencies of the teacher and the action that is necessary to correct those deficiencies.

2. An admonition issued to a licensed employee who, within the time granted for improvement, has met the standards set for the employee by the administrator who issued the admonition must be removed from the records of the employee together with all notations and indications of its having been issued. The admonition must be removed from the records of the employee not later than 3 years after it is issued.

3. An administrator need not admonish an employee pursuant to paragraph (a) of subsection 1 if his or her employment will be terminated pursuant to NRS 391.3197. ~~{If by March 1 of the first or second year of the employee's probationary period a probationary employee does not receive a written notice pursuant to subsection 4 of NRS 391.3125 of a potential decision not to reemploy him or her, the employee must receive an admonition before any such decision is made.}~~

4. A licensed employee is subject to immediate dismissal or a refusal to reemploy according to the procedures provided in NRS 391.311 to 391.3197, inclusive, **and section 9 of this act** without the admonition required by this section, on grounds contained in paragraphs (b), (f), (g), (h) , ~~{and}~~ (p) **and (t)** of subsection 1 of NRS 391.312.

Sec. 18. NRS 391.317 is hereby amended to read as follows:

391.317 1. At least 15 days before recommending to a board that it demote, dismiss or not reemploy a postprobationary employee, ~~for dismiss or demote a probationary employee,}~~ the superintendent shall give written notice to the employee, by registered or certified mail, of the superintendent's intention to make the recommendation.

2. The notice must:

(a) Inform the licensed employee of the grounds for the recommendation.

(b) Inform the employee that, if a written request therefor is directed to the superintendent within 10 days after receipt of the notice, the employee is entitled to a hearing before a hearing officer ~~{}~~ **pursuant to NRS 391.315 to 391.3194, inclusive, or if a dismissal of the employee will occur before the completion of the current school year, the employee may request an expedited hearing pursuant to subsection 3.**

(c) Refer to chapter 391 of NRS.

3. If a postprobationary employee receives notice pursuant to subsection 1 that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization. If the employee elects to proceed under the expedited procedures, the provisions of NRS 391.3161, 391.3192 and 391.3193 do not apply.

Sec. 19. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for ~~two~~ **three** 1-year periods and has no right to employment after ~~either~~ **any** of the ~~two~~ **three** probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first , ~~and~~ second **and third** school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second **or third** year of the probationary period or for the ~~next~~ **fourth** school year as a postprobationary employee. ***Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status.*** The employee must advise the board in writing on or before May 10 of the first , ~~or~~ second **or third** year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in ~~both~~ the first , ~~and~~ second **and third** years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second **or third** year of the probationary period or for the ~~next~~ **fourth** school year as a postprobationary employee. ***Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status.*** The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment ***pursuant to this subsection*** constitutes rejection of the contract.

3. A probationary employee who ~~completes~~ :

(a) ***Completes*** a ~~2-year~~ **3-year** probationary period ~~and receives~~ :

(b) ***Receives a designation of "satisfactory" on each of his or her performance evaluations for 2 consecutive school years; and***

(c) ***Receives*** a notice of reemployment from the school district in the ~~second~~ **third** year of the employee's probationary period .

is entitled to be a postprobationary employee in the ensuing year of employment.

4. ~~If a probationary employee receives notice pursuant to subsection 4 of NRS 391.3125 not later than March 1 of a potential decision not to reemploy him or her, the employee may request a supplemental evaluation by another administrator in the school district selected by the employee and the superintendent. If a school district has five or fewer administrators, the supplemental evaluator may be an administrator from another school district in this State. If a probationary employee has received during the first school year of the employee's probationary period three evaluations which state that the employee's overall performance has been satisfactory, the superintendent of schools of the school district or the superintendent's designee shall waive~~

the second year of the employee's probationary period by expressly providing in writing on the final evaluation of the employee for the first probationary year that the second year of the employee's probationary period is waived. Such an employee is entitled to be a postprobationary employee in the ensuing year of employment.

—5.} If a probationary employee is notified that the employee will not be reemployed for the ~~second year of the employee's probationary period or the ensuing~~ school year ~~{,}~~ ***following the 3-year probationary period***, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

~~{6.}~~ 5. A new employee ***who is employed as an administrator*** or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a ~~{2-year}~~ ***3-year*** probationary period as an administrator in accordance with the provisions of this section. ~~{If the administrator does not receive an unsatisfactory evaluation during the first year of probation, the superintendent or the superintendent's designee shall waive the second year of the administrator's probationary period. Such an administrator is entitled to be a postprobationary employee in the ensuing year of employment.}~~ If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after ~~{either}~~ ***any*** year of his or her probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

➤ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

~~{7.}~~ 6. An administrator who has completed his or her probationary period pursuant to subsection ~~{6}~~ 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. ***If an administrator is promoted to the position of principal before completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of 1 year in the position of principal, whichever is longer.*** If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the ***probationary period or*** additional probationary period, ***as applicable***, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a

contract, the person shall be deemed to have rejected the offer of employment.

~~{8. Before dismissal, the probationary employee is entitled to a hearing before a hearing officer which affords due process as set out in NRS 391.311 to 391.3196, inclusive.}~~

7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the probationary employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 19.5. NRS 391.3197 is hereby amended to read as follows:

391.3197 1. A probationary employee is employed on a contract basis for three 1-year periods and has no right to employment after any of the three probationary contract years.

2. The board shall notify each probationary employee in writing on or before May 1 of the first, second and third school years of the employee's probationary period, as appropriate, whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify the probationary employee in writing on or before May 1 in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing on or before May 10 of the first, second or third year of the employee's probationary period, as appropriate, of the employee's acceptance of reemployment. If a probationary employee is assigned to a school that operates all year, the board shall notify the employee in writing, in the first, second and third years of the employee's probationary period, no later than 45 days before his or her last day of work for the year under his or her contract whether the employee is to be reemployed for the second or third year of the probationary period or for the fourth school year as a postprobationary employee. Failure of the board to notify a probationary employee in writing within the prescribed period in the first or second year of the probationary period does not entitle the employee to postprobationary status. The employee must advise the board in writing within 10 days after the date of notification of his or her acceptance or rejection of reemployment for another year. Failure to advise the board of the employee's acceptance of reemployment pursuant to this subsection constitutes rejection of the contract.

3. A probationary employee who:

- (a) Completes a 3-year probationary period;
- (b) Receives a designation of ~~["satisfactory"]~~ **"highly effective" or "effective"** on each of his or her performance evaluations for 2 consecutive school years; and
- (c) Receives a notice of reemployment from the school district in the third year of the employee's probationary period,

↪ is entitled to be a postprobationary employee in the ensuing year of employment.

4. If a probationary employee is notified that the employee will not be reemployed for the school year following the 3-year probationary period, his or her employment ends on the last day of the current school year. The notice that the employee will not be reemployed must include a statement of the reasons for that decision.

5. A new employee who is employed as an administrator or a postprobationary teacher who is employed as an administrator shall be deemed to be a probationary employee for the purposes of this section and must serve a 3-year probationary period as an administrator in accordance with the provisions of this section. If:

(a) A postprobationary teacher who is an administrator is not reemployed as an administrator after any year of his or her probationary period; and

(b) There is a position as a teacher available for the ensuing school year in the school district in which the person is employed,

↪ the board of trustees of the school district shall, on or before May 1, offer the person a contract as a teacher for the ensuing school year. The person may accept the contract in writing on or before May 10. If the person fails to accept the contract as a teacher, the person shall be deemed to have rejected the offer of a contract as a teacher.

6. An administrator who has completed his or her probationary period pursuant to subsection 5 and is thereafter promoted to the position of principal must serve an additional probationary period of 1 year in the position of principal. If an administrator is promoted to the position of principal before the completion of his or her probationary period pursuant to subsection 5, the administrator must serve the remainder of his or her probationary period pursuant to subsection 5 or an additional probationary period of 1 year in the position of principal, whichever is longer. If the administrator serving the additional probationary period is not reemployed as a principal after the expiration of the probationary period or additional probationary period, as applicable, the board of trustees of the school district in which the person is employed shall, on or before May 1, offer the person a contract for the ensuing school year for the administrative position in which the person attained postprobationary status. The person may accept the contract in writing on or before May 10. If the person fails to accept such a contract, the person shall be deemed to have rejected the offer of employment.

7. If a probationary employee receives notice that he or she will be dismissed before the completion of the current school year, the employee may request an expedited hearing pursuant to the Expedited Labor Arbitration Procedures established by the American Arbitration Association or its successor organization.

Sec. 19.6. Chapter 288 of NRS is hereby amended by adding thereto a new section to read as follows:

If the board of trustees of a school district determines that a reduction in the existing workforce of the licensed educational personnel in the school district is necessary, the decision to lay off a teacher or an administrator must not be based solely on the seniority of the teacher or administrator and may include, without limitation, a consideration of the following factors:

1. Whether the teacher or administrator is employed in a position which is hard to fill;

2. Whether the teacher or administrator has received a national board certification;

3. The performance evaluations of the teacher or administrator;

4. The disciplinary record of the teacher or administrator within the school district;

5. The criminal record of the teacher or administrator, if any;

6. The type of licensure held by the teacher or administrator; and

7. The type of degree attained by the teacher or administrator and whether the degree is in a subject area that is related to his or her position.

Sec. 19.7. NRS 288.150 is hereby amended to read as follows:

288.150 1. Except as provided in subsection 4, every local government employer shall negotiate in good faith through one or more representatives of its own choosing concerning the mandatory subjects of bargaining set forth in subsection 2 with the designated representatives of the recognized employee organization, if any, for each appropriate bargaining unit among its employees. If either party so requests, agreements reached must be reduced to writing.

2. The scope of mandatory bargaining is limited to:

- (a) Salary or wage rates or other forms of direct monetary compensation.
- (b) Sick leave.
- (c) Vacation leave.
- (d) Holidays.
- (e) Other paid or nonpaid leaves of absence.
- (f) Insurance benefits.
- (g) Total hours of work required of an employee on each workday or workweek.
- (h) Total number of days' work required of an employee in a work year.
- (i) Discharge and disciplinary procedures.
- (j) Recognition clause.
- (k) The method used to classify employees in the bargaining unit.
- (l) Deduction of dues for the recognized employee organization.
- (m) Protection of employees in the bargaining unit from discrimination because of participation in recognized employee organizations consistent with the provisions of this chapter.
- (n) No-strike provisions consistent with the provisions of this chapter.
- (o) Grievance and arbitration procedures for resolution of disputes relating to interpretation or application of collective bargaining agreements.

- (p) General savings clauses.
- (q) Duration of collective bargaining agreements.
- (r) Safety of the employee.
- (s) Teacher preparation time.
- (t) Materials and supplies for classrooms.
- (u) The policies for the transfer and reassignment of teachers.
- (v) Procedures for reduction in workforce ~~that~~ consistent with the provisions of this chapter.

3. Those subject matters which are not within the scope of mandatory bargaining and which are reserved to the local government employer without negotiation include:

(a) Except as otherwise provided in paragraph (u) of subsection 2, the right to hire, direct, assign or transfer an employee, but excluding the right to assign or transfer an employee as a form of discipline.

(b) The right to reduce in force or lay off any employee because of lack of work or lack of money, subject to paragraph (v) of subsection 2.

(c) The right to determine:

(1) Appropriate staffing levels and work performance standards, except for safety considerations;

(2) The content of the workday, including without limitation workload factors, except for safety considerations;

(3) The quality and quantity of services to be offered to the public; and

(4) The means and methods of offering those services.

(d) Safety of the public.

4. Notwithstanding the provisions of any collective bargaining agreement negotiated pursuant to this chapter, a local government employer is entitled to take whatever actions may be necessary to carry out its responsibilities in situations of emergency such as a riot, military action, natural disaster or civil disorder. Those actions may include the suspension of any collective bargaining agreement for the duration of the emergency. Any action taken under the provisions of this subsection must not be construed as a failure to negotiate in good faith.

5. The provisions of this chapter, including without limitation the provisions of this section, recognize and declare the ultimate right and responsibility of the local government employer to manage its operation in the most efficient manner consistent with the best interests of all its citizens, its taxpayers and its employees.

6. This section does not preclude, but this chapter does not require the local government employer to negotiate subject matters enumerated in subsection 3 which are outside the scope of mandatory bargaining. The local government employer shall discuss subject matters outside the scope of mandatory bargaining but it is not required to negotiate those matters.

7. Contract provisions presently existing in signed and ratified agreements as of May 15, 1975, at 12 p.m. remain negotiable.

Sec. 19.8. NRS 288.195 is hereby amended to read as follows:

288.195 Whenever an employee organization enters into negotiations with a local government employer, pursuant to NRS 288.140 to 288.220, inclusive, ***and section 19.6 of this act***, such employee organization may be represented by an attorney licensed to practice law in the State of Nevada.

Sec. 20. Section 9 of this act is hereby amended to read as follows:

Sec. 9. 1. If a written evaluation of a probationary teacher or probationary administrator designates the overall performance of the teacher or administrator as ~~["unsatisfactory"]~~ ***"minimally effective" or "ineffective"***:

(a) The written evaluation must include the following statement: "Please be advised that, pursuant to Nevada law, your contract may not be renewed for the next school year. If you receive two evaluations for this school year which designate your performance as ~~["unsatisfactory,"]~~ ***'minimally effective' or 'ineffective,'*** and if you have another evaluation remaining this school year, you may request that the evaluation be conducted by another administrator. You may also request, to the administrator who conducted the evaluation, reasonable assistance in correcting the deficiencies reported in the evaluation for which you request assistance, and upon such request, a reasonable effort will be made to assist you in correcting those deficiencies."

(b) The probationary teacher or probationary administrator, as applicable, must acknowledge in writing that he or she has received and understands the statement described in paragraph (a).

2. If a probationary teacher or probationary administrator requests that his or her next evaluation be conducted by another administrator in accordance with the notice required by subsection 1, the administrator conducting the evaluation must be:

(a) Employed by the school district or, if the school district has five or fewer administrators, employed by another school district in this State; and

(b) Selected by the probationary teacher or probationary administrator, as applicable, from a list of three candidates submitted by the superintendent.

3. If a probationary teacher or probationary administrator requests assistance in correcting deficiencies reported in his or her evaluation, the administrator who conducted the evaluation shall ensure that a reasonable effort is made to assist the probationary teacher or probationary administrator in correcting those deficiencies.

Sec. 20.5. Section 1 of Assembly Bill No. 225 of this session is hereby amended to read as follows:

Section 1. Chapter 391 of NRS is hereby amended by adding thereto a new section to read as follows:

A postprobationary employee who receives an ~~unsatisfactory evaluation pursuant to NRS 391.3125 or 391.3127, as applicable, or any other~~

equivalent) evaluation designating his or her overall performance as ~~below average~~ below average :

1. If evaluated pursuant to NRS 391.3125 or 391.3127, as applicable:
 - (a) Minimally effective;
 - (b) Ineffective; or
 - (c) Minimally effective during 1 year of the 2-year consecutive period and ineffective during the other year of the period; or
2. If evaluated pursuant to any other system of evaluation, any designation which indicates that the overall performance of the employee is below average,

↪ for 2 consecutive school years shall be deemed to be a probationary employee for the purposes of NRS 391.311 to 391.3197, inclusive, and section 9 of Assembly Bill No. 229 of this session, and must serve an additional probationary period in accordance with the provisions of NRS 391.3197.

Sec. 21. The provisions of section 9 of this act, NRS 391.311 to 391.3125, inclusive, as amended by sections 10 to 13, inclusive, of this act, NRS 391.3127, as amended by section 15 of this act, NRS 391.313, as amended by section 17 of this act, NRS 391.317, as amended by section 18 of this act, and NRS 391.3197, as amended by section 19 of this act, apply to all:

1. Teachers who are initially employed by a school district on or after July 1, 2011.
2. A new employee who is hired by a school district as an administrator on or after July 1, 2011.
3. A postprobationary teacher who is employed as an administrator on or after July 1, 2011.

Sec. 22. The board of trustees of each school district shall:

1. Commencing with the 2013-2104 school year, implement and carry out the policies for evaluations of teachers and administrators required by NRS 391.3125, as amended by section 14 of this act, NRS 391.3127, as amended by section 16 of this act, NRS 391.3197, as amended by section 19.5 of this act, and section 20 of this act.

2. Commencing with the 2013-2014 school year, implement and carry out section 20.5 of this act if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.

3. Commencing with the 2014-2015 school year, implement and carry out the program of performance pay and enhanced compensation established by the board of trustees pursuant to section 8 of this act.

Sec. 23. 1. This section and sections 1 to 7, inclusive, 9 to 13, inclusive, 15, 17, 18, 19, 19.6, 19.7, 19.8, 21 and 22 of this act become effective on July 1, 2011.

2. Sections 8, 14, 16, 19.5 and 20 of this act become effective on July 1, 2013.

3. Section 20.5 of this act becomes effective on July 1, 2013, if, and only if, Assembly Bill No. 225 of this session is enacted by the Legislature and becomes effective.

Senator Denis moved the adoption of the amendment.

Remarks by Senator Denis.

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

The amendment makes numerous changes to the bill. The significant changes include revisions to the reporting requirements for ratios of certain staff to include new definitions for teachers, instructional support staff, administrators and other staff.

It provides that a post-probationary teacher receiving an evaluation of unsatisfactory must be evaluated three times during the next school year.

It clarifies that an educator entitled to three evaluations in a contract year who receives a negative evaluation on the first or second evaluation may request the third evaluation be conducted by an outside evaluator selected from a list of three candidates submitted by the superintendent of the school district.

It specifies that, with reference to an evaluation of a public school teacher or administrator, the term "unsatisfactory" is to be replaced by "minimally effective or ineffective," to reflect the new terminology that will be in place after July 1, 2013.

It requires that the policy for educator performance evaluations require that at least 50 percent of the evaluation be based upon certain information concerning longitudinal comparisons of student achievement data.

It provides that a probationary employee must receive a satisfactory performance rating for two consecutive years before he or she receives a notice of reemployment from the school district in the last year of the employee's probationary period, and is entitled to be a post-probationary employee in the ensuing year of employment.

It provides for an expedited hearing, upon request, for a new probationary employee if the employee receives a notice of dismissal before the completion of the school year.

It provides that if the school district board of trustees determines that a reduction of workforce is necessary, the decision to lay off a teacher or administrator must not be based solely on seniority and may include consideration of whether the person is in a hard to fill position, attainment of National Board certification, performance evaluations, disciplinary records, criminal records, type of license held, and degree attainment germane to the position.

It amends certain sections of Assembly Bill No. 225 to make them parallel and consistent with changes made within Assembly Bill No. 229. These portions of the amendment take effect if and only if Assembly Bill No. 225 also is enacted.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that rules be suspended, that the reprinting of Assembly Bills Nos. 225, 229, be dispensed with, and placed on General File on this agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 225.

Bill read third time.

Remarks by Senators Denis, Schneider, Kieckhefer and Roberson.

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

SENATOR DENIS:

We have spent a lot of time this Session talking about education and education reform. These two bills form what is the basis of all the reforms we are talking about. There are several other bills. To get to this point we have had to work with all factions in the education community. Not everyone is happy with everything that is in this bill. Not everyone is unhappy with everything that is here. We have created a starting point for reform. There are some significant things in this bill. In the end, these are reforms that will help our children. It is not perfect. There will need to be adjustments in the future. Assembly Bill No. 225 specifically talks about post-probationary employees. This is a good bill. It will be good for our students in Nevada. I urge your support.

SENATOR SCHNEIDER:

We are all experts on education because we all went to school. Here we are dinking around again with education. In the ten sessions I have been in this Legislature, we have dinked with education because we are experts. We went to school. Some of us even went to college. That makes us experts. We dink around, we dink around, and we dink around. That is all we do and we mess things up more. This is just another half attempt at trying to do something. When was the last time you asked the professionals in education, "What is it going to take to get good students? What is it going to take?"

This is like building a football team. What is it going to take to get a winning team? You have to pay for it.

We are asking our teachers to take a pay cut. We are asking them to work more days. We are asking them to put more students in the classroom. Then we write an amendment that says this is reform and, now, it will be better. This is a joke. What we are doing tonight is a joke. I realize it is tied to the budget negotiations, but it is a joke. We are not building a better team. This is another attempt at tearing education up. That is what we are really doing.

We should be asking them what does it take to get us better students. It takes smaller schools. I have tried to do that in the past. Everyone with the Clark County School District who testified stated they would rather have students in smaller schools. Private schools are smaller schools. That makes a big difference. How about having schools with windows? That may give you better students. We do not pursue any of these ideas. We build the biggest schools we can to get the biggest bang for our buck. We jam the students in. There are 3,000 or 4,000 in a high school. We have middle schools with over 3,000 in Las Vegas. We lose students because they are just numbers. We do not listen to the professionals in education. We dink around because we are the experts. We went to school.

This is as if we have amended how you sell cars. We could tell people how to sell cars, but we do not do that because we would be interfering with private business. This is just another attempt at futility. This bill does not make education better. We need to look at ourselves. We need to stop and think about it. We fund education at the worst level in the nation, but we build the biggest schools in the nation. We fail our system. We fail our students, because we can save a buck. We can do it a little cheaper.

I appreciate what the Chair of Education is doing. He is trying. But, we are failing. I appreciate that the Majority Leader is trying to get some reform, trying to close this budget. I know we will have to vote for this. We will walk out of here saying we have done something good. But, thank you, Mr. President, this is not any good.

SENATOR KIECKHEFER:

I rise in support of Assembly Bill No. 225. I respectfully disagree with my colleague from Clark District No. 11. I have spoken several times this Session about the system we utilize to provide education to our children. I believe this bill as well as Assembly Bill No. 229, along with other bills making their way through this Legislative Body, are a significant improvement to the system of education in our State. I would like to thank the Chair of the Education Committee for processing these bills and amendments and putting the teeth into these bills that

are necessary to ensure that we can provide our children with the education they deserve and that we know they need in order to give them the future they want. I will support these bills. I encourage every member of this body to do the same and to feel good about their vote when they walk out of these Chambers. This is a good thing for our State.

SENATOR ROBERSON:

Thank you, Mr. President. I do not disagree with everything that the Senator from Clark District No. 11 had to say. We are dinking around the edges here. It is a good start, but it has taken four months to get to this point and the teachers' union is still objecting. They do not want this minimal reform. I would love to talk about sweeping education reform. I would like to talk about school choice on the ballot, but the majority party wanted no part of that. I want to give parents and children a choice in their education. Maybe they could choose a school with windows among other things. I do not disagree with everything the Senator from Clark District No. 11 says, but as long as we are going to let the teachers' union run our education system in this State, we are not going to get sweeping reforms.

SENATOR DENIS:

Many people came to the table to work on these bills. The teachers' union came to the table. There are parts of this they do not like. But, they also came forward and worked on this. I know that the sponsor has worked on these bills for over a year and a half. I appreciate everyone coming forward. It may not be a perfect thing, but the teachers' union did come forward. They are trying to do what is right for students, too. This is a good bill and we will see some good results from this.

SENATOR ROBERSON:

I appreciate my colleague from southern Nevada's comments. Let us be clear about one thing. The teachers' unions are not just concerned about parts of this bill. They have just sent us all an e-mail, a vote alert, the NSEA is strongly opposed to this bill. Here we are on May 30 and we have been working on this for months. They are still fighting tooth and nail against minimal education reform. That is the reality.

Senator McGinness moved the previous question, sustained by Senators Settelmeyer and Cegavske

Motion carried.

The question being on the passage of Assembly Bill No. 225

Roll call on Assembly Bill No. 225:

YEAS—18.

NAYS—Breedon, Kihuen, Manendo—3.

Assembly Bill No. 225 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 229.

Bill read third time.

Remarks by Senators Denis and Lee

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

SENATOR DENIS:

This bill is a companion bill to Assembly Bill No. 225. They work together. Assembly Bill No. 229 is a continuation of reforms for evaluation of teachers and administrators and revises the probationary period for teachers and administrators from two one-year periods to three one-year periods.

SENATOR LEE:

I would like to ask a question. If the post-probationary teachers' evaluation shows an unsatisfactory evaluation, they will have three more evaluations throughout the year. The bill says, "If for not less than a cumulative total of 60 minutes in each evaluation period, with one observation, 60 minute evaluation period consisting of at least 30 consecutive minutes." Do we make the evaluation of the teacher three times in three hours and that removes them? What are the other things besides sitting down and watching a teacher teach that gives a good or bad evaluation within that 60 minute period? On page 25, line 34 it says, "Administrator charged with the evaluation of a post-probationary teacher shall personally observe the performance of the teacher in the classroom for not less than a cumulative total of 60 minutes during each evaluation period." Are we evaluating the careers of these people by observing them for 20 minutes, returning to the office, then coming back to the classroom to evaluate them for another 20 minutes? How does this postprobationary performance evaluation take place? It seems draconian to me to terminate someone based on this evaluation.

SENATOR DENIS:

They do have a procedure they follow. They have a formal evaluation process, but it does not preclude the principal from observing the teacher many times on a regular basis. The process they follow examines where the teacher is. The procedure is determined by the district. It is not determined by the Legislature. This is a fair procedure by which to evaluate them.

SENATOR LEE:

A teacher is evaluated, but is that teacher compared to other teachers teaching the same course? Are there other things that go into the evaluation rather than just an administrator watching the teacher for 60 minutes?

SENATOR DENIS:

There are standards that teachers have to follow. They will use those and the evaluation will compare them to the standards. They are not going to be compared to other teachers. The growth of the students will also be taken into consideration as the teacher is evaluated.

SENATOR LEE:

That does not completely answer my question.

Roll call on Assembly Bill No. 229:

YEAS—20.

NAYS—Lee.

Assembly Bill No. 229 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

UNFINISHED BUSINESS
SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 88, 102, 112, 128, 132, 205, 210, 213, 221, 246, 300, 411, 417, 430, 445; Assembly Bills Nos. 17, 122, 500, 501, 519, 521.

Senator Horsford moved that the Senate adjourn until Tuesday, May 31, 2011, at 11 a.m. and that it do so in honor of Memorial Day.

Motion carried.

Senate adjourned at 12 a.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND FOURTEENTH DAY

CARSON CITY (Tuesday), May 31, 2011

Senate called to order at 12:06 p.m.

President Pro Tempore Schneider presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

God of grace, breathe on this assembled company Your gracious power. As we have witnessed the coming of spring that rouses nature from winter, so may You revive us, giving us new hope and a livelier faith.

If we have never before been conscious of our need, make our souls hungry for Your presence, that we may no longer be content to be half alive, which is half dead.

Give us fullness of life, set free from fear and doubt that we may find new joy in our labor.

Thank You for hearing our prayer today.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No.164 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Wiener moved that Senate Bills Nos. 77, 125, 223, 236, 259, 292, 323, 339, 414, be taken from Unfinished Business and placed on Unfinished Business for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 421.

Bill read third time.

Remarks by Senator Horsford.

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

Senate Bill No. 421, as amended, eliminates the Trust Fund for Public Health, and in so doing increases the share of Tobacco Settlement Funds allocated to the Fund for a Healthy Nevada from 50 percent to 60 percent. Under current law, the Tobacco Master Settlement Agreement allocates 10 percent of the Tobacco Settlement Funds to the Trust Fund for Public Health, 50 percent to the Fund for a Healthy Nevada, and 40 percent to the Guinn Millennium Scholarship Account. The bill also removes the provisions in current law that require certain percentages from the Fund for a Healthy Nevada be allocated for specific purposes and instead requires tobacco funds be distributed in accordance with policies and procedures developed by the Director of the Health and Human Services Department.

Roll call on Senate Bill No. 421:

YEAS—21.

NAYS—None.

Senate Bill No. 421 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Assembly Bill No. 528.

Bill read second time and ordered to third reading.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 257.

The following Assembly amendment was read:

Amendment No. 794.

"SUMMARY—Revises various provisions governing graffiti offenses. (BDR 15-616)"

"AN ACT relating to crimes; revising various provisions governing graffiti offenses; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law generally provides that a person who unlawfully places graffiti on or otherwise defaces public or private property is guilty of a misdemeanor, gross misdemeanor or felony, depending on the value of the loss of the property. Additionally, if a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of the loss of all the property must be aggregated for the purposes of determining a penalty if the value of the loss is \$5,000 or more. (NRS 206.330) **Section 1** of this bill revises this provision and requires aggregation when the value of the loss is \$500 or more. **Section 1** also provides that a person who commits an offense on any protected site in this State is guilty of a category C felony.

Existing law also requires a person who unlawfully places graffiti on or otherwise defaces public or private property to pay a monetary fine and perform community service. (NRS 206.330) **Section 1** specifies that in addition to any other fine or penalty imposed, a court may order such a person to pay restitution. **Section 1** also provides that a person convicted of a third offense must perform up to 300 hours of community service for up to a year cleaning up, repairing, replacing or keeping clean of graffiti the property damaged or destroyed by the person or another specified property.

Section 2 of this bill also authorizes a court to order a person who unlawfully places graffiti on or otherwise defaces public or private property to participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling. **Section 2** further authorizes the owner of public or private property that has been damaged by graffiti to bring a civil action against the

person who damaged the property. The property owner may be awarded damages in an amount up to three times **the amount of any loss in value to the property and up to three times** the cost of restoring the property, in addition to attorney's fees and costs.

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

Section 1. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.

(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

(d) Where the offense is committed on any protected site in this State, is guilty of a category C felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

2. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property damaged or destroyed by that person in the commission of those offenses must be aggregated for the purpose of determining the penalty prescribed in subsection 1, but only if the value of the loss when aggregated is ~~{ \$5,000 }~~ **\$500** or more.

3. A person who violates subsection 1 shall, in addition to any other fine or penalty imposed:

(a) For the first offense, pay a fine of not less than \$400 but not more than \$1,000 and perform 100 hours of community service.

(b) For the second offense, pay a fine of not less than \$750 but not more than \$1,000 and perform 200 hours of community service.

(c) For the third and each subsequent offense ~~{, pay }~~ :

(1) Pay a fine of \$1,000 ; and ~~{perform 200 hours of}~~

(2) Perform up to 300 hours of community service ~~{, for up to 1 year,~~ as determined by the court. The court may order the person to repair, replace, clean up or keep free of graffiti the property damaged or destroyed by the person or, if it is not practicable for the person to repair, replace, clean up or keep free of graffiti that specific property, the court may order

the person to repair, replace, clean up or keep free of graffiti another specified property.

➔ The community service assigned pursuant to this subsection must, if possible, be related to the abatement of graffiti.

4. *The court may, in addition to any other fine or penalty imposed, order a person who violates subsection 1 to pay restitution.*

5. The parent or legal guardian of a person under ~~the age of~~ 18 years *of age* who violates this section is liable for all fines and penalties imposed against the person. If the parent or legal guardian is unable to pay the fine and penalties resulting from a violation of this section because of financial hardship, the court may require the parent or legal guardian to perform community service.

~~{5-}~~ **6.** If a person who is 18 years of age or older is found guilty of violating this section, the court shall, in addition to any other penalty imposed, issue an order suspending the driver's license of the person for not less than 6 months but not more than 2 years. The court shall require the person to surrender all driver's licenses then held by the person. If the person does not possess a driver's license, the court shall issue an order prohibiting the person from applying for a driver's license for not less than 6 months but not more than 2 years. The court shall, within 5 days after issuing the order, forward to the Department of Motor Vehicles any licenses together with a copy of the order.

~~{6-}~~ **7.** The Department of Motor Vehicles:

(a) Shall not treat a violation of this section in the manner statutorily required for a moving traffic violation.

(b) Shall report the suspension of a driver's license pursuant to this section to an insurance company or its agent inquiring about the person's driving record. An insurance company shall not use any information obtained pursuant to this paragraph for purposes related to establishing premium rates or determining whether to underwrite the insurance.

~~{7-}~~ **8.** A criminal penalty imposed pursuant to this section is in addition to any civil penalty or other remedy available pursuant to *this section or* another statute for the same conduct.

~~{8-}~~ **9.** As used in this section:

(a) ~~"Historic site" means a site, landmark or monument of historical significance pertaining to the history of the settlement of Nevada, or Indian campgrounds, shelters, petroglyphs, pictographs and burials.~~

~~—(b)~~ "Impairment" means the disruption of ordinary and incidental services, the temporary loss of use or the removal of the property from service for repair of damage.

(b) *"Protected site" means:*

(1) A site, landmark, monument, building or structure of historical significance pertaining to the history of the settlement of Nevada;

(2) Any Indian campgrounds, shelters, petroglyphs, pictographs and burials; or

(3) Any archeological or paleontological site, ruin, deposit, fossilized footprints and other impressions, petroglyphs and pictographs, habitation caves, rock shelters, natural caves, burial ground or sites of religious or cultural importance to an Indian tribe.

(c) "Value of the loss" means the cost of repairing, restoring or replacing the property, including, without limitation, the cost of any materials and labor necessary to repair, restore or replace the item.

Sec. 2. NRS 206.345 is hereby amended to read as follows:

206.345 1. A court may, in addition to any other fine or penalty imposed, order a person who places graffiti on or otherwise defaces public or private property in violation of NRS 206.125 or 206.330 to participate in counseling, and if the person is less than 18 years of age, order the parent or legal guardian of the person to attend or participate in counseling pursuant to NRS 62E.290.

2. If a court orders a person who violates the provisions of NRS 206.125 or 206.330 to pay restitution, the person shall pay the restitution to:

~~1-1~~ (a) The owner of the property which was affected by the violation; or

~~1-2~~ (b) If the violation involved the placing of graffiti on any public property, the governmental entity that incurred expenses for removing, covering or cleaning up the graffiti.

3. The owner of public or private property that has been damaged by graffiti may bring a civil action against the person who placed the graffiti on such property. The court may award to the property owner damages in an amount up to three times the amount of any loss in value to the property and up to three times the cost of restoring the property plus attorney's fees and costs, which may be recovered from the offender or, if the offender is less than 18 years of age, from the parent or legal guardian of the offender.

Sec. 3. NRS 381.225 is hereby amended to read as follows:

381.225 1. It is unlawful for any person to commit vandalism upon any historic or prehistoric sites, natural monuments, speleological sites and objects of antiquity, or to write or paint or carve initials or words, or in any other way deface, any of those objects, Indian paintings or historic buildings.

2. Unless a greater penalty is provided in NRS 206.125 ~~1-1~~ **or 206.330**, a person violating the provisions of subsection 1 is guilty of a public offense proportionate to the value of the property damaged or destroyed as set forth in NRS 193.155.

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 257.

Remarks by Senator Wiener.

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

Amendment No. 794 makes changes related to the award of damages in a civil action against a person who placed graffiti. It authorizes the court to award damages up to three times the loss in value to the property, in addition to up to three times the costs of restoration and attorney's fees.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 101.

The following Assembly amendment was read:

Amendment No. 659.

"SUMMARY—Revises ~~certain~~ provisions relating to ~~certificates of marriage and the solemnization of~~ marriage. (BDR 11-635)"

"AN ACT relating to marriage; revising certain provisions relating to certificates of marriage and the solemnization of marriage; **revising provisions governing deputy commissioners of civil marriages;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the county clerk may place an affidavit of application for a marriage license, a certificate of marriage and a marriage license on a single form, on the reverse of which the county clerk must have printed or stamped instructions for obtaining a certified copy or certified abstract of the certificate of marriage. (NRS 122.055) **Section 2** of this bill requires the county clerk to include on the reverse of such a form: (1) instructions for obtaining a certified copy or certified abstract of the certificate of marriage; (2) certain language explaining that the certificate is not a certified copy and that a certified copy will need to be obtained for certain legal matters; and (3) a time stamp used by the clerk to signify that the form has been filed.

Existing law also provides that a certificate of permission to perform marriages expires when a minister or other person who is authorized to solemnize a marriage, to whom the certificate has been issued, moves from the county in which his or her certificate was issued. (NRS 122.066) **Section 3** of this bill specifies that a certificate of permission remains valid when a minister or other person who is authorized to solemnize a marriage, who is retired and who has been issued the certificate, moves to another county in this State.

Existing law authorizes, under certain circumstances, the commissioner of civil marriages in certain counties to appoint deputy commissioners of civil marriages and provides that deputy commissioners of civil marriages are employees of the county clerk's office. (NRS 122.175) Section 5 of this bill: (1) removes the prohibition against deputy commissioners of civil marriages solemnizing marriages at any time other than the working hours or shift during which the deputy commissioners of civil marriages are employed; (2) sets forth certain prerequisites that must be satisfied before a person who will be retained as an independent contractor by the county clerk's office may be appointed as a deputy commissioner of civil marriages; and (3) authorizes the compensation of a deputy commissioner of civil marriages who is retained as an independent contractor by the county

clerk's office to be based upon the number or volume of marriages that the deputy commissioner solemnizes.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 122.055 is hereby amended to read as follows:

122.055 1. The county clerk may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk shall have printed or stamped on the reverse of the form ~~{instructions}~~ :

(a) Instructions for obtaining a certified copy or certified abstract of the certificate of marriage.

(b) Language in black ink and at least 16-point bold type in a font that is easy to read and that is in substantially the following form:

This is your certificate. This is not a certified copy. For name changes and other legal matters, you will need to obtain a certified copy.

3. Nothing may be printed, stamped or written on the reverse of the form other than the instructions and language described in subsection 2 and a time stamp used by the county clerk to signify that the form has been filed.

Sec. 3. NRS 122.066 is hereby amended to read as follows:

122.066 1. The Secretary of State shall establish and maintain a statewide database of ministers or other persons authorized to solemnize a marriage. The database must:

(a) Serve as the official list of ministers or other persons authorized to solemnize a marriage approved in this State;

(b) Provide for a single method of storing and managing the official list;

(c) Be a uniform, centralized and interactive database;

(d) Be electronically secure and accessible to each county clerk in this State;

(e) Contain the name, mailing address and other pertinent information of each minister or other person authorized to solemnize a marriage as prescribed by the Secretary of State; and

(f) Include a unique identifier assigned by the Secretary of State to each minister or other person authorized to solemnize a marriage.

2. If the county clerk approves an application for a certificate of permission to perform marriages, the county clerk shall:

(a) Enter all information contained in the application into the electronic statewide database of ministers or other persons authorized to solemnize a marriage maintained by the Secretary of State not later than 10 days after the certificate of permission to perform marriages is approved by the county clerk; and

(b) Provide to the Secretary of State all information related to the minister or other person authorized to solemnize a marriage pursuant to paragraph (e) of subsection 1.

3. Upon approval of an application pursuant to subsection 2, the minister or other person authorized to solemnize a marriage:

(a) Shall comply with the laws of this State governing the solemnization of marriage and conduct of ministers or other persons authorized to solemnize a marriage;

(b) Is subject to further review or investigation by the county clerk to ensure that he or she continues to meet the statutory requirements for a person authorized to solemnize a marriage; and

(c) Shall provide the county clerk with any changes to his or her status or information, including, without limitation, the address or telephone number of the church or religious organization or any other information pertaining to certification.

4. A certificate of permission is valid until the county clerk has received an affidavit of revocation of authority to solemnize marriages pursuant to NRS 122.0665.

5. An affidavit of revocation of authority to solemnize marriages that is received pursuant to subsection 4 must be sent to the county clerk within 5 days after the minister or other person authorized to solemnize a marriage ceased to be a member of the church or religious organization in good standing or ceased to be a minister or other person authorized to solemnize a marriage for the church or religious organization.

6. If the county clerk in the county where the certificate of permission was issued has reason to believe that the minister or other person authorized to solemnize a marriage is no longer in good standing within his or her church or religious organization, or that he or she is no longer a minister or other person authorized to solemnize a marriage, or that such church or religious organization no longer exists, the county clerk may require satisfactory proof of the good standing of the minister or other person authorized to solemnize a marriage. If such proof is not presented within 15 days, the county clerk shall revoke the certificate of permission by amending the electronic record of the minister or other person authorized to solemnize a marriage in the statewide database pursuant to subsection 1.

7. ~~##~~ ***Except as otherwise provided in subsection 8, if*** any minister or other person authorized to solemnize a marriage to whom a certificate of permission has been issued severs ties with his or her church or religious organization or moves from the county in which his or her certificate was issued, the certificate shall expire immediately upon such severance or move, and the church or religious organization shall, within 5 days after the severance or move, file an affidavit of revocation of authority to solemnize marriages pursuant to NRS 122.0665. If the minister or other person authorized to solemnize a marriage voluntarily advises the county clerk of the county in which his or her certificate was issued of his or her severance

with his or her church or religious organization, or that he or she has moved from the county, the certificate shall expire immediately upon such severance or move without any notification to the county clerk by the church or religious organization.

8. *If any minister or other person authorized to solemnize a marriage, who is retired and to whom a certificate of permission has been issued, moves from the county in which his or her certificate was issued to another county in this State, the certificate remains valid until such time as the certificate otherwise expires or is revoked as prescribed by law. The minister or other person authorized to solemnize a marriage must provide his or her new address to the county clerk in the county to which the minister or other person authorized to solemnize a marriage has moved.*

9. The Secretary of State may adopt regulations concerning the creation and administration of the statewide database. This section does not prohibit the Secretary of State from making the database publicly accessible for the purpose of viewing ministers or other persons who are authorized to solemnize a marriage in this State.

Sec. 4. (Deleted by amendment.)

Sec. 5. NRS 122.175 is hereby amended to read as follows:

122.175 1. In a county whose population is 400,000 or more, the commissioner of civil marriages may appoint deputy commissioners of civil marriages. Such deputies shall:

(a) Solemnize marriages in commissioner townships under the direction of the commissioner; and

(b) Perform such other duties as the commissioner may direct.

2. In a county whose population is less than 400,000 and in which the board of county commissioners has appointed the county clerk to act as the commissioner of civil marriages, the board may, by ordinance, establish the number of deputy commissioners of civil marriages which may be appointed by the commissioner of civil marriages to carry out the duties set forth in subsection 1.

3. ~~No deputy commissioner of civil marriages may solemnize marriages at any time other than during the working hours or shift during which the deputy commissioner is employed.~~

~~4.~~ The deputy commissioners of civil marriages *who* are employees of the county clerk's office ~~and~~ are entitled to be compensated by a salary and by such other benefits as are available to other county personnel regularly employed in the same county clerk's office. The compensation of any deputy commissioner of civil marriages *who is an employee of the county clerk's office* must not be based in any manner upon the number or volume of marriages that the deputy commissioner may solemnize in the performance of his or her duties.

4. Before the commissioner of civil marriages may appoint a person who will be retained as an independent contractor by the county clerk's office as a deputy commissioner of civil marriages:

(a) The person must submit to the commissioner of civil marriages for the purposes of a background check:

(1) The person's name and social security number; and

(2) Any other information required by the commissioner of civil marriages.

(b) The commissioner of civil marriages:

(1) May require the district attorney and the sheriff to conduct an investigation of the background and present activities of the person; and

(2) Shall satisfy himself or herself that:

(I) No certificate of permission to perform marriages previously issued to the person has been cancelled for a knowing violation of the laws of this State or of the United States; and

(II) The person has not been convicted of a felony, released from confinement or completed his or her parole or probation, whichever occurs later, within 10 years before the date of submission of the information required pursuant to paragraph (a).

5. The compensation of a deputy commissioner of civil marriages who is retained as an independent contractor by the county clerk's office may be based upon the number or volume of marriages that the deputy commissioner solemnizes in the performance of his or her duties.

6. In counties in which deputy commissioners of civil marriages are employed, appointed, no more than two deputy commissioners may be on duty within the courthouse of such a county for the purpose of solemnizing marriages at any one time.

~~{Sec. 5.}~~ **Sec. 6.** This act becomes effective on July 1, 2011.

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 101.

Remarks by Senator Wiener.

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

Amendment No. 659 adds a new Section 5, which deletes the existing provision that deputy commissioners of civil marriage may not perform marriages at any time other than the hour or shift during which they are employed. It allows the appointment of deputy commissioners who are independent contractors and not employees of the county clerk's office, if they submit to a background check and meet the requirements set forth in the amendment.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President Pro Tempore and Secretary signed Senate Bills' Nos. 59, 89, 96, 111, 134, 142, 225, 322, 337, 436; Assembly Bills Nos. 179, 198, 238, 283, 289, 304, 309, 393, 398, 419, 545.

Senator Horsford moved that the Senate adjourn until Wednesday, June 1, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 12:17 p.m.

Approved:

MICHAEL A. SCHNEIDER
President Pro Tempore of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND FIFTEENTH DAY

CARSON CITY (Wednesday), June 1, 2011

Senate called to order at 12:58 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

O God. At this moment, the Senators of this great State, humbly ask for Your help and guidance. Make it a sacred moment, a moment when we all become aware of our need for You: a moment when answers come and guidance is given.

Often we pray for that which is already ours, neglected and unused. Sometimes, we pray for that which can never be ours and sometimes, for that which we must do for ourselves.

How many times we never pray at all and then work ourselves to death to earn something that is ours for the asking.

Help us to understand that "faith without works is dead," and that work without faith can never live.

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 was referred Assembly Bill No. 531, 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 Bills Nos. 129, 340, 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 Health and Human Services, to which were referred Assembly Bills Nos. 48, 148, 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 were referred Senate Bill No. 418; Assembly Bills Nos. 100, 570, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was re-referred Senate Bill No. 211, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Resolution No. 5, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Transportation, to which was referred Assembly Bill No. 247, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

SHIRLEY A. BREEDEN, *Chair*

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

May 31, 2011

The Honorable John Oceguera, *Speaker of the Assembly*, Legislative building, 401 South Carson Street, Carson City, Nevada, 89701

Legislative Building, Nevada 89701

RE: Assembly Bill No. 566 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. 566, 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. On May 14, 2011, I vetoed Senate Bill No. 497 relating to the same subject. In my message to the President of the Senate, I stated my objections: the plan reflected in the bill does not provide for the fair representation of the people of the State of Nevada, nor did it comply with the voting Rights Act of 1965. I veto this bill for the same reasons, incorporating by reference my letter to the President of the Senate of March 14, 2011 relating to Senate Bill No. 497 in support of this action.

Sincere regards,
BRIAN SANDOVAL
Governor

MOTIONS, RESOLUTIONS AND NOTICES

Senator Wiener moved that Senate Bill No. 164 be taken from the General File and placed on the General 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 1:06 p.m.

SENATE IN SESSION

At 1:10 p.m.

President Krolicki presiding.

Quorum present.

Senator Wiener moved that Senate Bills Nos. 77, 125, 259, 292, 414, be taken from Unfinished Business and placed on Unfinished Business for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

Senate Bill No. 223.

The following Assembly amendment was read:

Amendment No. 681.

"SUMMARY—Revises provisions relating to cruelty to animals. (BDR 50-760)"

"AN ACT relating to animals; authorizing a person to report an act of cruelty against an animal; requiring such a report to be kept confidential under certain circumstances; making certain willful and malicious acts of cruelty to certain animals punishable as a felony; clarifying that a retailer, dealer or operator who separates a dog or cat from its mother is guilty of a misdemeanor under certain circumstances; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law prohibits a person from committing an act of cruelty against an animal. (NRS 574.100) "Cruelty" is defined to include any act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted. (NRS 574.050) For a first or second offense within 7 years, existing law provides that a person who commits an act of cruelty against an animal is guilty of a misdemeanor. For a third or subsequent offense within 7 years, existing law provides that such a person is guilty of a category C felony. (NRS 574.100) Existing law also prohibits a person from committing certain acts against a dog that is owned by another person and that is used in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined. Specifically, a person who willfully, unjustifiably and maliciously tampers or interferes with such a dog is guilty of a category D felony. A person who willfully and unjustifiably abuses or injures such a dog is guilty of a category D felony and may be further punished by a fine of not more than \$10,000. A person who willfully and unjustifiably kills such a dog is guilty of a category C felony. (NRS 574.107) **Section 1** of this bill: (1) authorizes a person to report an act of cruelty against an animal to any peace officer, officer of a society for the prevention of cruelty to animals or animal control officer; (2) provides that the report is confidential; and (3) prohibits releasing any information concerning the report except ~~pursuant to~~ for the purposes of a criminal investigation or prosecution. **Section 4** of this bill provides that a person who willfully and maliciously commits certain acts of cruelty against an animal kept for companionship or pleasure or against any cat or dog is guilty of a category D felony, except that the person is guilty of a category C felony if the act of cruelty is committed against the animal in order to threaten, intimidate or terrorize another person.

Existing law prohibits a retailer, dealer or operator from separating a dog or cat from its mother until it is 8 weeks of age or is accustomed to taking food or nourishment other than by nursing, whichever is later. (NRS 574.500) Although no penalty is specifically provided for violating that prohibition, existing law provides that whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, a person who commits that act is guilty of a misdemeanor.

(NRS 193.170) **Section 6** of this bill clarifies that a person who separates a dog or cat from its mother before it is 8 weeks old or is accustomed to taking food or nourishment other than by nursing is guilty of a misdemeanor.

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

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

1. Any person who knows or has reasonable cause to believe that an animal has been subjected to an act of cruelty in violation of NRS 574.100 may report the act of cruelty to any:

(a) Peace officer;

(b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040; or

(c) Animal control officer.

2. Any report made pursuant to subsection 1 is confidential.

3. Any person, law enforcement agency, society for the prevention of cruelty to animals or animal control agency that willfully releases data or information concerning the reports, except ~~pursuant to~~ for the purposes of a criminal investigation or prosecution, is guilty of a misdemeanor.

Sec. 2. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~+~~ , **and section 1 of this act:**

1. "Animal" does not include the human race, but includes every other living creature.

2. "First responder" means a person who has successfully completed the national standard course for first responders.

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his or her duties as a peace officer.

4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 3. NRS 574.055 is hereby amended to read as follows:

574.055 1. Any peace officer or officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040 shall, upon discovering any animal which is being treated cruelly, take possession of it and provide it with shelter and care or, upon obtaining written permission from the owner of the animal, may destroy it in a humane manner.

2. If an officer takes possession of an animal, the officer shall give to the owner, if the owner can be found, a notice containing a written statement of the reasons for the taking, the location where the animal will be cared for and sheltered, and the fact that there is a limited lien on the animal for the cost of shelter and care. If the owner is not present at the taking and the officer cannot find the owner after a reasonable search, the officer shall post the

notice on the property from which the officer takes the animal. If the identity and address of the owner are later determined, the notice must be mailed to the owner immediately after the determination is made.

3. An officer who takes possession of an animal pursuant to this section has a lien on the animal for the reasonable cost of care and shelter furnished to the animal and, if applicable, for its humane destruction. The lien does not extend to the cost of care and shelter for more than 2 weeks.

4. Upon proof that the owner has been notified in accordance with the provisions of subsection 2 or, if the owner has not been found or identified, that the required notice has been posted on the property where the animal was found, a court of competent jurisdiction may, after providing an opportunity for a hearing, order the animal sold at auction, humanely destroyed or continued in the care of the officer for such disposition as the officer sees fit.

5. An officer who seizes an animal pursuant to this section is not liable for any action arising out of the taking or humane destruction of the animal.

6. The provisions of this section do not apply to any animal which is located on land being employed for an agricultural use as defined in NRS 361A.030 unless the owner of the animal or the person charged with the care of the animal is in violation of paragraph ~~[(b)]~~ (c) of subsection 1 of NRS 574.100 and the impoundment is accomplished with the concurrence and supervision of the sheriff or the sheriff's designee, a licensed veterinarian and the district brand inspector or the district brand inspector's designee. In such a case, the sheriff shall direct that the impoundment occur not later than 48 hours after the veterinarian determines that a violation of paragraph ~~[(b)]~~ (c) of subsection 1 of NRS 574.100 exists.

7. The owner of an animal impounded in accordance with the provisions of subsection 6 must, before the animal is released to the owner's custody, pay the charges approved by the sheriff as reasonably related to the impoundment, including the charges for the animal's food and water. If the owner is unable or refuses to pay the charges, the State Department of Agriculture shall sell the animal. The Department shall pay to the owner the proceeds of the sale remaining after deducting the charges reasonably related to the impoundment.

Sec. 4. NRS 574.100 is hereby amended to read as follows:

574.100 1. A person shall not:

(a) ~~{Overdrive,}~~ ***Torture or unjustifiably maim, mutilate or kill:***

(1) An animal kept for companionship or pleasure, whether belonging to the person or to another; or

(2) Any cat or dog;

(b) Except as otherwise provided in paragraph (a), overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether belonging to the person or to another;

~~[(b)]~~ ***(c) Deprive an animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink;***

~~{{(e)}}~~ **(d)** Cause, procure or allow an animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed or to be deprived of necessary food or drink;

~~{{(d)}}~~ **(e)** Instigate, engage in, or in any way further an act of cruelty to any animal, or any act tending to produce such cruelty; or

~~{{(e)}}~~ **(f)** Abandon an animal in circumstances other than those prohibited in NRS 574.110.

2. Except as otherwise provided in subsections 3 and 4 and NRS 574.210 to 574.510, inclusive, a person shall not restrain a dog:

(a) Using a tether, chain, tie, trolley or pulley system or other device that:

(1) Is less than 12 feet in length;

(2) Fails to allow the dog to move at least 12 feet or, if the device is a pulley system, fails to allow the dog to move a total of 12 feet; or

(3) Allows the dog to reach a fence or other object that may cause the dog to become injured or die by strangulation after jumping the fence or object or otherwise becoming entangled in the fence or object;

(b) Using a prong, pinch or choke collar or similar restraint; or

(c) For more than 14 hours during a 24-hour period.

3. Any pen or other outdoor enclosure that is used to maintain a dog must be appropriate for the size and breed of the dog. If any property that is used by a person to maintain a dog is of insufficient size to ensure compliance by the person with the provisions of paragraph (a) of subsection 2, the person may maintain the dog unrestrained in a pen or other outdoor enclosure that complies with the provisions of this subsection.

4. The provisions of subsections 2 and 3 do not apply to a dog that is:

(a) Tethered, chained, tied, restrained or placed in a pen or enclosure by a veterinarian, as defined in NRS 574.330, during the course of the veterinarian's practice;

(b) Being used lawfully to hunt a species of wildlife in this State during the hunting season for that species;

(c) Receiving training to hunt a species of wildlife in this State;

(d) In attendance at and participating in an exhibition, show, contest or other event in which the skill, breeding or stamina of the dog is judged or examined;

(e) Being kept in a shelter or boarding facility or temporarily in a camping area;

(f) Temporarily being cared for as part of a rescue operation or in any other manner in conjunction with a bona fide nonprofit organization formed for animal welfare purposes;

(g) Living on land that is directly related to an active agricultural operation, if the restraint is reasonably necessary to ensure the safety of the dog. As used in this paragraph, "agricultural operation" means any activity that is necessary for the commercial growing and harvesting of crops or the raising of livestock or poultry; or

(h) With a person having custody or control of the dog, if the person is engaged in a temporary task or activity with the dog for not more than 1 hour.

5. *A person who willfully and maliciously violates paragraph (a) of subsection 1:*

(a) Except as otherwise provided in paragraph (b), is guilty of a category D felony and shall be punished as provided in NRS 193.130.

(b) If the act is committed in order to threaten, intimidate or terrorize another person, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. *Except as otherwise provided in subsection 5, a person who violates subsection 1, 2 or 3:*

(a) For the first offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$200, but not more than \$1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur either at a time when the person is not required to be at the person's place of employment or on a weekend.

(b) For the second offense within the immediately preceding 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

↪ The person shall be further punished by a fine of not less than \$500, but not more than \$1,000.

(c) For the third and any subsequent offense within the immediately preceding 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~{6-}~~ 7. In addition to any other fine or penalty provided in subsection 5 ~~{-}~~ or 6, a court shall order a person convicted of violating subsection 1, 2 or 3 to pay restitution for all costs associated with the care and impoundment of any mistreated animal under subsection 1, 2 or 3, including, without limitation, money expended for veterinary treatment, feed and housing.

~~{7-}~~ 8. The court may order the person convicted of violating subsection 1, 2 or 3 to surrender ownership or possession of the mistreated animal.

~~{8.}~~ 9. The provisions of this section do not apply with respect to an injury to or the death of an animal that occurs accidentally in the normal course of:

- (a) Carrying out the activities of a rodeo or livestock show; or
- (b) Operating a ranch.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, *and section 1 of this act* do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.
2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.
3. Interfere with the right to kill all animals and fowl used for food.
4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.
5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.
6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

Sec. 6. NRS 574.500 is hereby amended to read as follows:

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

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Senator Manendo moved that the Senate concur in the Assembly amendment to Senate Bill No. 223.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 236.

The following Assembly amendment was read:

Amendment No. 628.

"SUMMARY—Provides for the increased use of recycled materials in certain road and highway projects. (BDR 35-766)"

"AN ACT relating to highways; declaring that it is the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public highways in this State; requiring the Director of the Department of Transportation to adopt policies ~~(to optimize)~~ **that provide for** the use of such materials in highway projects; requiring a local government that undertakes certain road or highway projects

to adopt policies that ~~{optimize}~~ **provide for** the use of such materials in the projects; ~~{requiring certain reporting to the Legislature concerning such projects;}~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.5 of this bill declares it to be the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public highways in this State. **Section 2** of this bill requires the Director of the Department of Transportation to adopt policies that ~~{optimize}~~ **provide for** the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in projects for the construction, reconstruction, improvement, maintenance or repair of highways. ~~{and to submit certain reports to the Legislature concerning the Department's use of such materials in those projects. Section}~~ **Section 2.3 of this bill requires the Department to ensure that the use of any recycled aggregate, recycled bituminous pavement or recycled rubber from tires in certain projects is not restricted unless scientific evidence satisfactory to the Department indicates that the use of the recycled aggregate, recycled bituminous pavement or recycled rubber from tires for the project compromises the soundness of the project. Sections 2.5 and 3** of this bill ~~{imposes}~~ **impose** comparable requirements on local governments that undertake public works projects for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway.

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

Section 1. (Deleted by amendment.)

Sec. 1.5. The Legislature hereby declares that it is the policy of this State to encourage and promote the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the construction, reconstruction, improvement, maintenance and repair of public roads and highways in this State.

Sec. 2. Chapter 408 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director shall ~~f~~:

~~1. Adopt~~ **adopt policies that provide for the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in projects for the construction, reconstruction, improvement, maintenance and repair of highways undertaken by the Department pursuant to this chapter.** ~~f; and~~

~~2. Not later than January 31 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in each project for the construction, reconstruction, improvement, maintenance~~

~~or repair of a highway undertaken by the Department pursuant to this chapter during the immediately preceding 2 calendar years.]~~

Sec. 2.3. NRS 408.313 is hereby amended to read as follows:

408.313 ~~[A]~~

1. Except as otherwise provided in subsection 2, all highways constructed under the provisions of this chapter shall be constructed in such manner as to provide for sufficient and permanent drainage and of such materials as to insure, so far as reasonably may be done, considering all of the circumstances, permanent wearing qualities and to provide against excessive maintenance cost. Regard shall always be had to the character and quality of the traffic to be accommodated and the interests of the public to be served.

2. The Department shall ensure that the use of any recycled aggregate, recycled bituminous pavement or recycled rubber from tires, or any combination thereof, in any project for the construction, reconstruction, improvement, maintenance or repair of a highway is not restricted unless scientific evidence satisfactory to the Department clearly indicates that the use of the recycled aggregate, recycled bituminous pavement or recycled rubber from tires for that project compromises the soundness of the project.

Sec. 2.5. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

The governing body of a local government that undertakes a project pursuant to this chapter for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway shall ~~f~~

~~1. Adopt] adopt policies [to optimize] that provide for the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the project. f; and~~

~~2. Not later than January 31 of each odd-numbered year, submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report concerning the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in each such project undertaken by the local government during the immediately preceding 2 calendar years.]~~

Sec. 3. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.1699, inclusive; or
- (d) NRS 338.1711 to 338.1727, inclusive.

2. A local government or its authorized representative which awards a contract for a public work pursuant to subsection 1 which includes the construction, reconstruction, improvement, maintenance or repair of a public road or public highway shall ensure that the use of any recycled

aggregate, recycled bituminous pavement or recycled rubber from tires, or any combination thereof, in the construction, reconstruction, improvement, maintenance or repair of the public road or public highway is not restricted unless scientific evidence satisfactory to the local government clearly indicates that the use of the recycled aggregate, recycled bituminous pavement or recycled rubber from tires for that construction, reconstruction, improvement, maintenance or repair compromises the soundness of the project.

3. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive ~~†~~, **and section 2 of this act.**

Sec. 3.5. The amendatory provisions of this act do not apply to:

1. A project specified in section 2 or 2.5 of this act or NRS 408.313, as amended by section 2.3 of this act, which is commenced before July 1, 2011; or

2. A contract specified in NRS 338.1373, as amended by section 3 of this act, which is entered into before July 1, 2011.

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

Senator Breeden moved that the Senate concur in the Assembly amendment to Senate Bill No. 236.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 299.

The following Assembly amendment was read:

Amendment No. 682.

"SUMMARY—Revises provisions relating to the care of animals. (BDR 50-388)"

"AN ACT relating to animals; requiring the board of county commissioners of each county and the governing body of each incorporated city to adopt an ordinance requiring commercial breeders of dogs or cats to obtain a permit to act as a breeder under certain circumstances; setting forth the requirements for the issuance of those permits; making various changes to the standards of care for dogs and cats; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law specifies standards for the care of dogs and cats by kennel and cattery operators, cat and dog breeders and sellers, and operators of animal shelters. (NRS 574.360-574.440) **Section 1.3** of this bill defines "breeder" as a person who operates a commercial establishment engaged in the business of breeding dogs or cats for sale or trade. **Section 1.3 expressly excludes from that definition any person who breeds dogs or cats as a**

hobby. **Section 1.6** of this bill requires the board of county commissioners of each county and the governing body of each incorporated city to adopt an ordinance requiring each breeder to obtain an annual permit to do so from the board or governing body or from the animal control agency of the applicable county or city. **Section 1.6** also requires the applicable authority to issue the permit and assign a permit number to each breeder who applies for a permit, pays ~~any~~ the prescribed fee , if any, and complies with any other requirement established by the ordinance. Each permit issued must specify the premises at which the person may act as a breeder, and the number of the permit assigned to a breeder must be displayed in all advertising in which the breeder offers a dog or cat for sale or trade and on any receipt of sale of a dog or cat sold by the breeder. **Section 1.6** also authorizes an animal control agent of the applicable board or governing body or animal control agency to enter and inspect the specified premises of a breeder during any reasonable hour for the purpose of enforcing the animal care provisions of chapter 574 of NRS. Finally, **section 1.6** authorizes the ordinances required pursuant to this bill to provide for the suspension, revocation or denial of a permit for violating those animal care provisions.

Section 1.9 of this bill prohibits a breeder from selling a dog or cat unless a registered microchip has been subcutaneously inserted into the dog or cat and the dog or cat has had ~~its~~ all the required ~~{vaccination}~~ vaccinations for rabies ~~it~~ which are appropriate for the age of the dog or cat. In addition, **section 1.9** prohibits a breeder from selling a dog or cat without a written sales contract and further prohibits a breeder from breeding a female dog before she is 18 months old or more than once a year. **Sections 4 and ~~8-13~~ 9-11** of this bill make various changes to certain standards of care for dogs and cats.

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

Section 1. Chapter 574 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3, 1.6 and 1.9 of this act.

Sec. 1.3. *"Breeder" means a dealer, operator or other person who is responsible for the operation of a commercial establishment engaged in the business of breeding dogs or cats for sale or trade. The term does not include a person who breeds dogs or cats as a hobby.*

Sec. 1.6. 1. *In addition to any ordinance adopted pursuant to NRS 244.189 , 244.335 or 244.359, the board of county commissioners of each county, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, shall adopt an ordinance requiring each breeder in an unincorporated area of the county to obtain an annual permit to act as a breeder issued by the board or by the animal control agency of the county, if any. Each such board of county commissioners may impose a fee for the issuance of the annual permit which does not exceed the approximate cost of providing the services associated with the issuance of the annual permits.*

2. *In addition to any ordinance adopted pursuant to NRS 266.325 ~~or~~ or 266.355, the city council or other governing body of each incorporated city, whether organized under general law or special charter, if its jurisdiction to enact and enforce ordinances relating to animals is not limited by an interlocal agreement, shall adopt an ordinance requiring each breeder in the incorporated area of the city to obtain an annual permit to act as a breeder issued by the city council or other governing body or by the animal control agency, if any. Each such city council or other governing body of an incorporated city may impose a fee for the issuance of the annual permit which does not exceed the approximate cost of providing the services associated with the issuance of the annual permits.*

3. *After a board of county commissioners or a city council or other governing body of an incorporated city adopts an ordinance pursuant to subsection 1 or 2, as applicable, the board or governing body shall issue a permit and assign a permit number to each breeder who:*

(a) *Submits an application on a form and in the manner prescribed by the ordinance;*

(b) *Pays a fee, if any, prescribed by the ordinance; and*

(c) *Complies with any other requirements prescribed by the ordinance.*

4. *Each permit issued pursuant to subsection 3 must specify the address of the premises at which the person may act as a breeder.*

5. *The number of the permit assigned to a breeder pursuant to subsection 3 must be displayed in all advertising in which the breeder offers a dog or cat for sale and on any receipt of sale of a dog or cat sold by the breeder.*

6. *For the purpose of enforcing the provisions of NRS 574.360 to 574.440, inclusive, as those provisions apply to breeders, any animal control agent of the issuing authority may enter and inspect the premises specified on the permit at any reasonable hour.*

7. *An ordinance adopted pursuant to subsection 1 or 2 may provide for the suspension, revocation or denial of a permit for a violation of the provisions of NRS 574.360 to 574.440, inclusive, as those provisions apply to breeders.*

Sec. 1.9. *A breeder shall not:*

1. *Sell a dog or cat:*

(a) *Unless the dog or cat has had:*

(1) *A registered microchip subcutaneously inserted into the dog or cat; and*

(2) *All ~~fits~~ the required vaccinations for rabies ~~for~~ which are appropriate based upon the age of the dog or cat; or*

(b) *Without providing a written sales contract to the purchaser; or*

2. *Breed a female dog:*

(a) *Before she is 18 months old; or*

(b) *More than once a year.*

Sec. 2. NRS 574.210 is hereby amended to read as follows:

574.210 As used in NRS 574.210 to 574.510, inclusive, ***and sections 1.3, 1.6 and 1.9 of this act***, unless the context otherwise requires, the words and terms defined in NRS 574.220 to 574.330, inclusive, ***and section 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 574.310 is hereby amended to read as follows:

574.310 "Primary enclosure" means a structure used to restrict the immediate movement of a dog or cat to a limited amount of space, such as a room, pen, run, cage, compartment or hutch ~~[-]~~, ***and in which an animal is regularly so restricted for more than 7 hours during a 24-hour period.***

Sec. 5. NRS 574.340 is hereby amended to read as follows:

574.340 **1.** The provisions of NRS 574.210 to 574.510, inclusive, ***and sections 1.3, 1.6 and 1.9 of this act*** do not apply to:

~~{1-}~~ (a) The exhibition, production, marketing or disposal of any livestock, poultry, fish or other agricultural commodity ~~[-]~~
—~~2-}~~ ***or animal.***

(b) Activities for which a license is required by the provisions of chapter 466 of NRS.

~~{3-}~~ (c) The housing of domestic cats or dogs kept as pets or cared for, without remuneration other than payment for reasonable expenses relating to the care of the cats or dogs, on behalf of another person in a home environment.

~~{4-}~~ (d) The exhibition of dogs or cats.

2. As used in this section:

(a) ***"Animal" has the meaning ascribed to it in NRS 564.010.***

(b) ***"Livestock" has the meaning ascribed to it in NRS 569.0085.***

Sec. 6. NRS 574.350 is hereby amended to read as follows:

574.350 No member, agent or officer of a society for the prevention of cruelty to animals may enforce the provisions of NRS 574.210 to 574.510, inclusive ~~[-]~~, ***and sections 1.3, 1.6 and 1.9 of this act.***

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 574.380 is hereby amended to read as follows:

574.380 If dogs or cats are kept outdoors, an operator shall:

1. Provide a suitable method for the rapid drainage of surface water from the area where each dog or cat is kept.

2. Provide each dog or cat with a sufficient amount of shelter to:

(a) Remain dry from rain and snow;

(b) Have enough shade to protect itself from any direct sunlight that is likely to cause overheating or discomfort; ~~and~~

(c) ***Remain cool during a period for which the National Weather Service has issued a heat advisory;***

(d) ***Protect the animal from wind which creates a wind chill below 50 degrees Fahrenheit or for which the National Weather Service has issued a high wind warning; and***

(e) Remain warm when the atmospheric temperature falls below 50 degrees Fahrenheit. If the ambient temperature falls below ~~the temperature to which a dog or cat is acclimated,~~ **50 degrees Fahrenheit**, the operator shall provide such an additional amount of clean bedding material or other protection as necessary for the dog or cat to remain warm.

3. After considering the ambient temperature, provide each dog or cat with a sufficient amount of food and water necessary to sustain it in a healthy condition at that temperature.

Sec. 10. NRS 574.390 is hereby amended to read as follows:

574.390 **1.** An operator shall ensure that a primary enclosure ~~is~~ :

(a) Has a solid floor;

(b) Is not stacked on top of another primary enclosure; and

(c) Is constructed and maintained in such a manner as to:

~~1-1~~ **(1)** Protect the dogs or cats inside from injury;

~~1-2~~ **(2)** Prevent the dogs or cats inside from escaping;

~~1-3~~ **(3)** Keep other dogs or cats out;

~~1-4~~ **(4)** Allow the dogs or cats inside convenient access to food and water;

~~1-5~~ **(5)** Enable the dogs or cats inside to remain clean and dry; ~~and~~

~~—6-~~ **(6)** Provide sufficient space for each dog or cat inside to turn about freely and to stand, sit and lie in a comfortable, normal position ~~;~~ **and**

(7) Prevent the dogs or cats inside from biting or otherwise harming an animal or person outside of the primary enclosure.

2. The provisions of paragraphs (a) and (b) of subsection 1 do not apply to an animal shelter.

Sec. 11. NRS 574.430 is hereby amended to read as follows:

574.430 An operator shall ensure that:

1. Insects, ectoparasites and avian, mammalian and reptilian pests are kept under control.

2. Supplies of food and bedding material are stored in facilities that afford adequate protection from infestation or contamination by vermin.

3. **For primary enclosures used to restrict the immediate movement of a dog or cat:**

(a) Excreta are removed ~~from primary enclosures~~ at least once daily to prevent contamination and to reduce to a minimum odors and the risk of disease ~~[-A primary enclosure must be-]~~ **; and**

(b) Each such primary enclosure is disinfected at least once daily and before placing another dog or cat in the primary enclosure. If a hosing or flushing method of cleaning is used, all dogs and cats must be removed from the primary enclosure and adequate measures must be taken to protect the dogs and cats in other primary enclosures from being contaminated with water and other wastes.

4. ~~Other~~ **Primary enclosures used to restrict the immediate movement of an animal other than a dog or cat** are cleaned, washed and disinfected at least once every 2 weeks to prevent any accumulation of debris or excreta

and to reduce to a practical minimum substances and organisms injurious to the health of animals or humans.

5. Pens or runs with hard surfaces, and cages and rooms, are sanitized at least once every 2 weeks by:

(a) Washing them with water of a temperature not less than 120 degrees Fahrenheit and with soap or detergent;

(b) Washing all soiled surfaces with a safe and effective disinfectant; or

(c) Cleaning all soiled surfaces with live steam.

6. Pens or runs with gravel, sand or dirt surfaces are cleaned as often as necessary by removing and replacing the soiled gravel, sand or dirt.

7. Sewage, solid wastes, soiled bedding, dead animals and debris are removed from housing facilities regularly and disposed of properly.

8. Facilities for disposal are maintained in such a manner as to reduce to a minimum odors and the risk of disease or infestation by vermin.

9. Adequate facilities, such as washrooms, basins or sinks, are provided for the cleanliness of persons handling animals.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Senator Manendo moved that the Senate concur in the Assembly amendment to Senate Bill No. 299.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 323.

The following Assembly amendment was read:

Amendment No. 672.

"SUMMARY—Revises provisions relating to motor vehicle liability insurance and registration. (BDR 43-421)"

"AN ACT relating to vehicles; revising provisions governing the reinstatement of the registration of a motor vehicle whose registered owner has allowed his or her policy of liability insurance to lapse; revising provisions governing registration of vehicles in this State by residents of this State; requiring certain nonresidents to register vehicles in this State; **prohibiting the Department of Motor Vehicles from registering a motor vehicle under certain circumstances;** providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a registered owner who failed to have liability insurance on a date specified by the Department of Motor Vehicles is required, with respect to a vehicle that is not dormant, to pay to the Department a fee of \$250 to reinstate the registration of the vehicle. (NRS 482.480) **Section ~~HH~~ 2** of this bill replaces the flat \$250 reinstatement fee with a tiered system of penalties that includes, depending upon how many times the registered owner has allowed his or her insurance to lapse and

depending upon the length of time during which the insurance has lapsed, escalating reinstatement fees, escalating fines, requirements to file and maintain a certificate of financial responsibility and possible suspension of the registered owner's driver's license.

Existing law requires a person, within 60 days after becoming a resident of this State, to apply for the registration of each vehicle he or she owns which is operated in this State. A nonresident owner of a noncommercial vehicle is not required to apply for registration of the vehicle unless the vehicle is furnished to a resident for his or her continuous use within this State. (NRS 482.385) **Section ~~12~~ 4** of this bill changes the 60-day period within which a new resident must apply for registration of his or her vehicle to a 30-day period. **Section ~~12~~ 4** also requires certain persons to register their vehicles: (1) if the person is a nonresident and the vehicle is operated in this State for a period of more than 30 days in the aggregate in any 1 calendar year; (2) within ~~140~~ 30 days if the person is a resident or nonresident and engages in a trade, profession or occupation or accepts gainful employment in this State; (3) within ~~140~~ 30 days if the person is a resident or nonresident and enrolls his or her children in a public school in this State; or (4) within 30 days if the person is a resident and operates a vehicle owned by a nonresident. **Section ~~12~~ 4** provides exceptions to the preceding requirements for persons who are on active duty in the military service of the United States, out-of-state students, certain students of institutions of higher education who are present in this State to participate in a work-study program, and migrant or seasonal farm workers.

Under existing law, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. Such a constable must, upon the issuance of the citation, charge and collect a fee of \$100 from the person to whom the citation was issued. (NRS 258.070) Section 3 of this bill prohibits the Department of Motor Vehicles from registering a motor vehicle if the Department has received from a local authority notice that the owner of the vehicle has failed to pay a fee imposed by a constable for noncompliance with the provisions of NRS 482.385, unless the owner provides to the Department a receipt indicating that the owner has paid the fee to the local authority or the local authority transmits to the Department a notice stating that the owner has paid the fee.

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ **the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. 1. Except as otherwise provided in subsection 7 of NRS 485.317, if a registered owner failed to have insurance on the date specified by the Department pursuant to NRS 485.317:

(a) For a first offense, the registered owner shall pay to the Department a registration reinstatement fee of \$250, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$250.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(b) For a second offense, the registered owner shall pay to the Department a registration reinstatement fee of \$500, and if the period during which insurance coverage lapsed was:

(1) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(2) At least 91 days but not more than 180 days:

(I) Pay to the Department a fine of \$500; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(3) More than 180 days:

(I) Pay to the Department a fine of \$1,000; and

(II) File and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated.

(c) For a third or subsequent offense:

(1) The driver's license of the registered owner must be suspended for a period to be determined by regulation of the Department but not less than 30 days;

(2) The registered owner shall file and maintain with the Department a certificate of financial responsibility for a period of not less than 3 years following the date on which the registration of the applicable vehicle is reinstated; and

(3) The registered owner shall pay to the Department a registration reinstatement fee of \$750, and if the period during which insurance coverage lapsed was:

(I) At least 31 days but not more than 90 days, pay to the Department a fine of \$500.

(II) At least 91 days but not more than 180 days, pay to the Department a fine of \$750.

(III) *More than 180 days, pay to the Department a fine of \$1,000.*

2. *As used in this section, "certificate of financial responsibility" has the meaning ascribed to it in NRS 485.028.*

Sec. 3. 1. Except as otherwise provided in subsection 3, the Department shall not register a motor vehicle if a local authority has filed with the Department a notice stating that the owner of the motor vehicle:

(a) Was cited by a constable pursuant to subsection 2 of NRS 258.070 for failure to comply with the provisions of NRS 482.385; and

(b) Has failed to pay the fee charged by the constable pursuant to subsection 2 of NRS 258.070.

2. The Department shall, upon request, furnish to the owner of the motor vehicle a copy of the notice of nonpayment described in subsection 1.

3. The Department may register a motor vehicle for which the Department has received a notice of nonpayment described in subsection 1 if:

(a) The Department receives:

(1) A receipt from the owner of the motor vehicle which indicates that the owner has paid the fee charged by the constable; or

(2) Notification from the applicable local authority that the owner of the motor vehicle has paid the fee charged by the constable; and

(b) The owner of the motor vehicle otherwise complies with the requirements of this chapter for the registration of the motor vehicle.

~~{Sec. 2-}~~ Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in ~~{subsection}~~ **subsections 5 and 7** and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State ~~{-}~~ :

(a) For a period of not more than 30 days in the aggregate in any 1 calendar year; and

(b) Notwithstanding the provisions of paragraph (a), during any period in which the owner is:

(1) On active duty in the military service of the United States;

(2) An out-of-state student;

(3) Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or

(4) A migrant or seasonal farm worker.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. ~~{When}~~ ***Except as otherwise provided in subsection 5, when*** a person, formerly a nonresident, becomes a resident of this State, the person shall:

(a) Within ~~{60}~~ 30 days after becoming a resident; or

(b) At the time he or she obtains a driver's license,

↳ whichever occurs earlier, apply for the registration of each vehicle the person owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection.

4. A citation may be issued pursuant to ~~{this}~~ subsection 1, 3 or 5 only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. The Department shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of ~~{this}~~ subsection 3 and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

~~{4-}~~ 5. ***Except as otherwise provided in this subsection, a resident or nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter who engages in a trade, profession or occupation or accepts gainful employment in this State or who enrolls his or her children in a public school in this State shall, within ~~{10}~~ 30 days after the commencement of such employment or enrollment, apply for the registration of each vehicle the person owns which is operated in this State. The provisions of this subsection do not apply to a nonresident who is:***

(a) ***On active duty in the military service of the United States;***

(b) ***An out-of-state student;***

(c) ***Registered as a student at a college or university located outside this State and who is in the State for a period of not more than 6 months to participate in a work-study program for which the student earns academic credits from the college or university; or***

(d) ***A migrant or seasonal farm worker.***

6. A person who violates the provisions of subsection 1, 3 or 5 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of \$1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection ~~{3-}~~ 4. The fine imposed pursuant to this subsection may be

reduced to not less than \$200 if the person presents evidence at the time of the hearing that the person has registered the vehicle pursuant to this chapter.

~~{5-}~~ 7. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his or her continuous use within this State, shall cause that vehicle to be registered within ~~{60}~~ 30 days after beginning its operation within this State.

~~{6-}~~ 8. A person registering a vehicle pursuant to the provisions of subsection 1, 3, 5, ~~{or}~~ 7 or 9 or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of the previous registration.

~~{7-}~~ 9. If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

~~{8-}~~ 10. An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

~~{9-}~~ 11. A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; ~~{or}~~

(b) The vehicle is used in this State for a gainful purpose ~~{-}~~;

(c) Except as otherwise provided in paragraph (b) of subsection 1, the owner of the vehicle is a nonresident and has operated the vehicle in this State for more than 30 days in the aggregate in any 1 calendar year; or

(d) The owner of the vehicle is a nonresident required to register the vehicle pursuant to subsection 5.

➤ As used in this subsection, "peace officer" includes a constable.

~~{Sec. 3-}~~ **Sec. 5.** NRS 482.480 is hereby amended to read as follows:

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

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

2. Except as otherwise provided in subsection 3:

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

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

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

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

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

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

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

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

6. Except as otherwise provided in subsection 7 of NRS 485.317, to reinstate the registration of a motor vehicle that is suspended pursuant to that section:

(a) A fee ~~of \$250~~ *as specified in section ~~4~~ 2 of this act* for a registered owner who failed to have insurance on the date specified by the Department ~~4~~, *which fee is in addition to any fine or penalty imposed pursuant to section ~~4~~ 2 of this act*; or

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

➤ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

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

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

9. For every low-speed vehicle, as that term is defined in NRS 484B.637, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

~~{Sec. 4.}~~ **Sec. 6.** NRS 485.317 is hereby amended to read as follows:

485.317 1. The Department shall verify that each motor vehicle which is registered in this State is covered by a policy of liability insurance as required by NRS 485.185.

2. Except as otherwise provided in this subsection, the Department may use any information to verify whether a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185. The Department may not use the name of the owner of a motor vehicle as the primary means of verifying that a motor vehicle is covered by a policy of liability insurance.

3. If the Department is unable to verify that a motor vehicle is covered by a policy of liability insurance as required by NRS 485.185, the Department shall send a request for information by first-class mail to the registered owner of the motor vehicle. The owner shall submit all the information which is requested to the Department within 15 days after the date on which the request for information was mailed by the Department. If the Department does not receive the requested information within 15 days after it mailed the request to the owner, the Department shall send to the owner a notice of suspension of registration by certified mail. The notice must inform the owner that unless the Department is able to verify that the motor vehicle is covered by a policy of liability insurance as required by NRS 485.185 within 10 days after the date on which the notice was sent by the Department, the owner's registration will be suspended pursuant to subsection 4.

4. The Department shall suspend the registration and require the return to the Department of the license plates of any vehicle for which the Department cannot verify the coverage of liability insurance required by NRS 485.185.

5. Except as otherwise provided in subsection 6, the Department shall reinstate the registration of the vehicle and reissue the license plates only upon verification of current insurance and ~~payment of the fee~~ **compliance with the requirements** for reinstatement of registration prescribed in paragraph (a) of subsection 6 of NRS 482.480.

6. If a registered owner proves to the satisfaction of the Department that the vehicle was a dormant vehicle during the period in which the information provided pursuant to NRS 485.314 indicated that there was no insurance for the vehicle, the Department shall reinstate the registration and, if applicable, reissue the license plates. If such an owner of a dormant vehicle failed to cancel the registration for the vehicle in accordance with subsection 3 of NRS 485.320, the Department shall not reinstate the registration or reissue the license plates unless the owner pays the fee set forth in paragraph (b) of subsection 6 of NRS 482.480.

7. If the Department suspends the registration of a motor vehicle pursuant to subsection 4 because the registered owner of the motor vehicle failed to have insurance on the date specified in the form for verification, and if the registered owner, in accordance with regulations adopted by the Department, proves to the satisfaction of the Department that the owner was unable to comply with the provisions of NRS 485.185 on that date because of extenuating circumstances, the Department may:

(a) Reinstate the registration of the motor vehicle and reissue the license plates upon payment by the registered owner of a fee of \$50, which must be deposited in the Account for Verification of Insurance created by subsection 6 of NRS 482.480; or

(b) Rescind the suspension of the registration without the payment of a fee.

➤ The Department shall adopt regulations to carry out the provisions of this subsection.

~~{Sec. 5.}~~ **Sec. 7.** Notwithstanding the amendatory provisions of this act:

1. The provisions of subsection 3 of NRS 482.385, as amended by section ~~4~~ **4** of this act, do not require a person specified in that subsection to register a vehicle owned by that person and operated in this State until August 1, 2011.

2. The provisions of subsection 5 of NRS 482.385, as added to that section by section ~~4~~ **4** of this act, do not require a resident of this State specified in that subsection to register a vehicle owned by that person and operated in this State until September 1, 2011.

3. The provisions of subsection 7 of NRS 482.385, as amended by section ~~4~~ **4** of this act, do not require a resident of this State who operates a motor vehicle specified in that subsection to cause that motor vehicle to be registered until August 1, 2011.

~~{Sec. 6.}~~ **Sec. 8.** This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2011, for all other purposes.

Senator Breeden moved that the Senate concur in the Assembly amendment to Senate Bill No. 323.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 339.

The following Assembly amendment was read:

Amendment No. 711.

"SUMMARY—Establishes provisions relating to the safety of patients in certain medical facilities. (BDR 40-662)"

"AN ACT relating to public health; requiring certain medical facilities to provide to patients and to post certain information relating to facility-acquired infections; **requiring providers of health care to provide certain information to a patient who has an infection or a person authorized by the patient to receive such information;** revising requirements for patient safety plans adopted by certain medical facilities; requiring certain medical facilities to designate an infection control officer and establish an infection control program; ~~including facilities for intermediate care and facilities for skilled nursing within the scope of these requirements and other provisions concerning health and safety of patients;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 2 of this bill requires certain medical facilities to provide to their patients certain information relating to facility-acquired infections and to post in public areas of the facilities information on reporting facility-acquired infections.

Section 2.5 of this bill requires a provider of health care or the designee of a provider of health care to inform a patient at a medical

facility or the legal guardian or other person authorized by the patient to receive such information of a diagnosis that the patient has an infection as soon as practicable but not later than 5 days after the diagnosis is confirmed, except that such notice may be delayed in certain limited circumstances. Section 2.5 further requires the medical facility to ensure that providers of health care of the medical facility establish protocols for providing such information and for informing a patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and of the apparent source of the infection. Section ~~4.2~~ 2.5 further provides for immunity from liability for providing certain information to a patient relating to the source of an infection.

Section 3 of this bill requires certain medical facilities to designate an infection control officer to carry out certain duties relating to the prevention and control of infections. **Section 3** also establishes requirements for the qualification and training of infection control officers and requires that at least one employee per 100 occupied beds have certain training in infection control.

~~[Section 4.5 of this bill extends the provisions of this bill and other provisions concerning health and safety of patients at certain medical facilities to facilities for intermediate care and facilities for skilled nursing.]~~

Existing law requires certain medical facilities to prepare a patient safety plan and to submit a copy of the plan to the Health Division of the Department of Health and Human Services on or before March 1 of each year. (NRS 439.843, 439.865) **Section 6** of this bill requires the patient safety plan which is prepared by each medical facility to **include an infection control program to prevent and control infections within the medical facility. In addition, section 6 requires that the patient safety plan** be ~~revised~~ **reviewed and updated** annually. ~~[and to include a program for the prevention and control of infections.]~~ **Section 5** of this bill requires the Department to post each patient safety plan on an Internet website maintained by the Department.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, **2.5** and 3 of this act.

Sec. 2. 1. A medical facility shall:

(a) Provide to each patient of the medical facility, upon admission of the patient, the general and facility-specific information relating to facility-acquired infections required by subsection 2.

(b) Post in publicly accessible areas of the medical facility information on reporting facility-acquired infections, including, without limitation, the contact information for making reports to the Health Division. Such information may be added to other required notices concerning the making of reports to the Health Division.

~~[(c) Ensure that protocols are established for:—~~

~~—(1) Informing a patient or the legal guardian or other person authorized by the patient to receive such information that the patient has an infection; and~~

~~—(2) If known or determined while a patient remains at the medical facility, informing the patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and the apparent source of the infection.]~~

2. The information provided to each patient pursuant to paragraph (a) of subsection 1 must include, without limitation:

(a) The measures used by the medical facility for preventing infections, including facility-acquired infections;

(b) Information on determining whether a patient had an infection upon admission to the medical facility, risk factors for acquiring infections and determining whether an infection has been acquired;

(c) Information on preventing facility-acquired infections;

(d) Instructions for reporting facility-acquired infections, including, without limitation, the contact information for making reports to the Health Division; and

(e) Any other information that the medical facility deems necessary.

~~[- 3. A person or governmental entity who, with reasonable care, informs a patient or the legal guardian or other person authorized by the patient to receive such information that an infection was not acquired at the medical facility and of the apparent source of the infection pursuant to subsection 2 is immune from any criminal or civil liability for providing that information.]~~

Sec. 2.5. 1. Except as otherwise provided in subsection 2, when a provider of health care confirms that a patient at the medical facility has an infection, the provider of health care or the designee of the provider of health care shall, as soon as practicable but not later than 5 days after the diagnosis is confirmed, inform the patient or the legal guardian or other person authorized by the patient to receive such information that the patient has an infection.

2. The provider of health care or the designee of the provider of health care may delay providing information about an infection if the patient does not have a legal guardian, has not authorized any other person to receive such information and:

(a) Is not capable of understanding the information;

(b) Is not conscious; or

(c) In the judgment of the provider of health care, is likely to harm himself or herself if informed about the infection.

3. If the provider of health care or the designee of the provider of health care delays providing information about an infection pursuant to subsection 2, such information must be provided as soon as practicable after:

- (a) The patient is capable of understanding the information;
- (b) The patient regains consciousness;
- (c) In the judgment of the provider of health care, the patient is not likely to harm himself or herself if informed about the infection; or
- (d) A legal guardian or other person authorized to receive such information is available.

4. A medical facility shall ensure that the providers of health care of the medical facility establish protocols in accordance with this section that provide the manner in which a provider of health care or his or her designee must:

- (a) Inform a patient or the legal guardian or other person authorized by a patient to receive such information that the patient has an infection; and
- (b) If known or determined while a patient remains at the medical facility, inform the patient or the legal guardian or other person authorized by the patient to receive such information whether the infection was acquired at the medical facility and of the apparent source of the infection.

5. A person or governmental entity who, with reasonable care, informs a patient or the legal guardian or other person authorized by the patient to receive such information that an infection was not acquired at the medical facility and of the apparent source of the infection pursuant to subsection 4 is immune from any criminal or civil liability for providing that information.

Sec. 3. 1. A medical facility shall designate an officer or employee of the facility to serve as the infection control officer of the medical facility.

2. The person who is designated as the infection control officer of a medical facility:

- (a) Shall serve on the patient safety committee.
- (b) Shall monitor the occurrences of infections at the medical facility to determine the number and severity of infections.
- (c) Shall report to the patient safety committee concerning the number and severity of infections at the medical facility.
- (d) Shall take such action as he or she determines is necessary to prevent and control infections alleged to have occurred at the medical facility.
- (e) Shall carry out the provisions of the infection control program adopted pursuant to NRS 439.865 and ensure compliance with the program.

3. If a medical facility has 175 or more beds, the person who is designated as the infection control officer of the medical facility must be certified as an infection preventionist by the Certification Board of Infection Control and Epidemiology, Inc., or a successor organization. A person may serve as the certified infection preventionist for more than one medical facility if the facilities have common ownership.

4. A medical facility that designates an infection control officer who is not a certified infection preventionist must ensure that the person has

successfully completed a nationally recognized basic training program in infection control, which may include, without limitation, the program offered by the Association for Professionals in Infection Control and Epidemiology, Inc., or a successor organization. A medical facility shall ensure that an infection control officer completes at least 4 hours of continuing education each year on topics relating to current practices in infection control and prevention.

5. A medical facility shall ensure that it maintains a ratio of at least one employee who has the training described in subsection 4 for every 100 occupied beds. The number of beds must be determined based upon the most recent annual calendar-year average reported by the medical facility to the Director pursuant to NRS 449.490 and the regulations adopted pursuant thereto.

6. A medical facility shall maintain records concerning the certification and training required by this section.

7. The Health Division shall provide education and technical assistance relating to infection control and prevention in medical facilities.

Sec. 4. NRS 439.800 is hereby amended to read as follows:

439.800 As used in NRS 439.800 to 439.890, inclusive, *and sections 2, 2.5 and 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 439.802 to 439.830, inclusive, have the meanings ascribed to them in those sections.

Sec. 4.5. ~~NRS 439.805 is hereby amended to read as follows:~~

~~439.805 "Medical facility" means:~~

- ~~1. A hospital, as that term is defined in NRS 449.012, [and 449.0151];~~
 - ~~2. An obstetric center, as that term is defined in NRS [449.0151 and] 449.0155;~~
 - ~~3. A surgical center for ambulatory patients, as that term is defined in NRS [449.0151 and] 449.019; [and]~~
 - ~~4. An independent center for emergency medical care, as that term is defined in NRS 449.013 [and 449.0151.];~~
 - ~~5. A facility for intermediate care, as that term is defined in NRS 449.0038; and~~
 - ~~6. A facility for skilled nursing, as that term is defined in NRS 449.0039.]~~
- (Deleted by amendment.)**

Sec. 5. 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 *most current* 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 reports submitted pursuant to NRS 439.835 and any other information requested by the State Board of Health concerning those reports when preparing the annual summary pursuant to this section.

3. The Department shall post on the Internet website maintained pursuant to NRS 439A.270 or any other website maintained by the Department a copy of the most current patient safety plan submitted by each medical facility pursuant to subsection 1.

Sec. 6. NRS 439.865 is hereby amended to read as follows:

439.865 1. Each medical facility that is located within this state shall develop, in consultation with the providers of health care who provide treatment to patients at the medical facility, an internal patient safety plan to improve the health and safety of patients who are treated at that medical facility.

2. The patient safety plan must include an infection control program to prevent and control infections within the medical facility. To carry out the program, the medical facility shall adopt an infection control policy. The policy ~~may~~ must consist of:

(a) The current guidelines appropriate for the facility's scope of service developed by a nationally recognized infection control organization as approved by the State Board of Health which may include, without limitation, the Association for Professionals in Infection Control and Epidemiology, Inc., the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the World Health Organization and the Society for Healthcare Epidemiology of America; and

(b) Facility-specific infection control developed under the supervision of a certified infection preventionist. ~~for~~

~~—(c) Any combination thereof.~~

3. The program to prevent and control infections within the medical facility must provide for the designation of a person who is responsible for infection control when the infection control officer is absent to ensure that someone is responsible for infection control at all times.

4. A medical facility shall submit its patient safety plan to the governing board of the medical facility for approval in accordance with the requirements of this section.

~~{3-}~~ 5. After a medical facility's patient safety plan is approved, the medical facility shall notify all providers of health care who provide treatment to patients at the medical facility of the existence of the plan and of the requirements of the plan. A medical facility shall require compliance with its patient safety plan.

6. *The patient safety plan must be reviewed and updated annually in accordance with the requirements for approval set forth in this section.*

Sec. 7. NRS 439.875 is hereby amended to read as follows:

439.875 1. A medical facility shall establish a patient safety committee.

2. Except as otherwise provided in subsection 3:

(a) A patient safety committee established pursuant to subsection 1 must be composed of:

(1) ***The infection control officer of the medical facility.***

(2) The patient safety officer of the medical facility ~~{-}~~, ***if he or she is not designated as the infection control officer of the medical facility.***

~~{(2)}~~ (3) At least three providers of health care who treat patients at the medical facility, including, without limitation, at least one member of the medical, nursing and pharmaceutical staff of the medical facility.

~~{(3)}~~ (4) One member of the executive or governing body of the medical facility.

(b) A patient safety committee shall meet at least once each month.

3. The Administrator shall adopt regulations prescribing the composition and frequency of meetings of patient safety committees at medical facilities having fewer than 25 employees and contractors.

4. A patient safety committee shall:

(a) Receive reports from the patient safety officer pursuant to NRS 439.870.

(b) Evaluate actions of the patient safety officer in connection with all reports of sentinel events alleged to have occurred at the medical facility.

(c) Review and evaluate the quality of measures carried out by the medical facility to improve the safety of patients who receive treatment at the medical facility.

(d) ***Review and evaluate the quality of measures carried out by the medical facility to prevent and control infections at the medical facility.***

(e) Make recommendations to the executive or governing body of the medical facility to reduce the number and severity of sentinel events ***and infections*** that occur at the medical facility.

~~{(e)}~~ (f) At least once each calendar quarter, report to the executive or governing body of the medical facility regarding:

(1) The number of sentinel events that occurred at the medical facility during the preceding calendar quarter; ~~{and}~~

(2) *The number and severity of infections that occurred at the medical facility during the preceding calendar quarter; and*

(3) Any recommendations to reduce the number and severity of sentinel events *and infections* that occur at the medical facility.

5. The proceedings and records of a patient safety committee are subject to the same privilege and protection from discovery as the proceedings and records described in NRS 49.265.

Sec. 8. This act becomes effective ~~†~~

~~1. Upon~~ **upon** passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out this act ~~†~~

~~2. Except as provided in subsection 3,†~~ **and for all other purposes:**

1. Sections 1 and 2.5 of this act become effective on October 1, 2011.

2. Sections 2 and 4 to 7, inclusive, of this act become effective on January 1, 2012.†, for all other purposes; and

~~3. On January 1, 2013,†~~

3. Section 3 of this act becomes effective on January 1, 2012, except that, for the purpose of the continuing education required by ~~†section 3 of this act†~~ that section for infection control officers ~~††~~, it becomes effective on January 1, 2013.

Senator Copening moved that the Senate concur in the Assembly amendment to Senate Bill No. 339.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 197, 212, 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 Education.

STEVEN A. HORSFORD, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill Nos. 197, 212, be re-referred to the Committee on Education.

Motion carried.

Senator Horsford moved that Assembly Bill No. 528 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. 257; Assembly Bills Nos. 2, 78, 117, 152, 202, 204, 212, 232, 291, 294, 358, 374, 384, 388, 390, 463, 489, 530; Assembly Resolution No. 9, Assembly Joint Resolution No. 6.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Breeden, the privilege of the Floor of the Senate Chamber for this day was extended to Randy Soltero.

On request of Senator Gustavson, the privilege of the Floor of the Senate Chamber for this day was extended to Tiger Helgelien and Jerry Dorchuck.

On request of Senator Kieckhefer, the privilege of the Floor of the Senate Chamber for this day was extended to Austin Richard Kieckhefer, and Robert Kieckhefer.

On request of Senator Lee, the privilege of the Floor of the Senate Chamber for this day was extended to Bill Byrnes and Barbara McDonald.

Senator Horsford moved that the Senate adjourn until Thursday, June 2, 2011, at 11 a.m. and that it do so in memory of former Justice Cameron Batjer.

Motion carried.

Senate adjourned at 1:27 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND SIXTEENTH DAY

CARSON CITY (Thursday), June 2, 2011

Senate called to order at 12:01 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Albert Tilstra.

The time is ticking by pretty fast as we are seeing the deadlines for this, the Seventy-sixth Session of this Legislature.

It is so easy to become confused and then live in cross-purposes with each other.

Take us by the hand and help us to see things from Your viewpoint that we may see them as they really are. We come to choices and decisions with a prayer on our lips for our wisdom fails us. Give to these, Your servants in the Senate, Your wisdom.

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

MICHAEL A. SCHNEIDER, *Chair*

Mr. President:

Your Committee on Education, to which was referred Assembly Bill No. 224, 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 referred Assembly Bill No. 529, 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. 374, 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 Legislative Operations and Elections, to which was referred Assembly Bill No. 474, 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*

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

June 1, 2011

The Honorable John Ocegüera, *Speaker of the Assembly*, Legislative Building, 401 South

Carson Street, Carson City, Nevada 89701

RE: Assembly Bill No. 135 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. 135, which is entitled:

AN ACT relating to probation; revising provisions concerning violations of probation; and providing other matters properly relating thereto.

This bill relates to the authority of courts to, upon determination that a person has violated a condition of probation, continue or revoke the probation or suspension of sentence. More specifically, the bill limits courts' discretion to revoke the probation and suspension of sentence to cases where: (1) imprisonment is necessary to protect the community from further criminal activity by the probationer; (2) the probationer is in need of treatment which can most effectively be provided if he or she is imprisoned; (3) the seriousness of the violation or the totality of violations by the probationer warrant revocation of probation and suspension of the sentence; or (4) the violation demonstrates the probationer cannot be supervised pursuant to practices and policies governing probation.

The bill further precludes courts from revoking probation and the suspension of the sentence based on the probationer's failure to pay court imposed administrative assessments, fees and expenses. In addition, before revoking probation and the suspension of the sentence, the bill requires courts to make findings to support the reasons for the revocation and state them on the record.

The requirement that courts state on the record the reasons for revocation of probation and the suspension of a sentence is reasonable. The limits imposed on the discretion of the courts to revoke probation and the suspension of a sentence, however, are not. The effective administration of justice requires the proportionate enforcement of criminal sentences. Proportionality is not, though, easily obtained through the application of categorical methodology. Instead, courts require flexibility and discretion in fashioning the appropriate response to a probation violation. Thus, courts have traditionally been granted latitude in determining the appropriate mechanism by which such sentences are enforced. The revocation of probation and the suspension of a sentence are tools often employed toward that end.

Insofar as this bill limits the cases in which these enforcement mechanisms are available, it undermines the ability of courts to effectively enforce sentences. The Legislature's attempt to categorically define the circumstances under which revocation of probation and the suspension of a sentence are appropriate fails to adequately capture the scope of cases where such revocation is appropriate; therefore, I veto this bill and return it to you without my approval.

Sincerely,

BRIAN SANDOVAL
Governor of Nevada

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

June 1, 2011

The Honorable John Oceguera, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

RE: Assembly Bill No. 253 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. 253, which is entitled:

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.

This bill relates to occupational safety. It proposes significant increases to the fines that may be imposed for willful violations of the Nevada Occupational Safety and Health Act (OSHA).

The bill also revises the punishment for a willful violation that results in the death of an employee.

There is some merit to the argument that the bill's increased fines may help reduce the number of willful OSHA violations occurring in Nevada's workplaces. However, a more innovative and proactive approach is warranted to improve workplace safety and change behavior before it results in workplace injuries or death. I therefore exercise my constitutional grant of authority to veto AB 253 and return it to you without my approval.

Sincerely,

BRIAN SANDOVAL
Governor of Nevada

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

June 1, 2011

The Honorable John Oceguera, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

RE: Assembly Bill No. 254 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. 254, which is entitled:

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.

This bill relates to occupational safety. Like Assembly Bill No. 253, which I have already vetoed, Assembly Bill No. 254 unnecessarily increases the complexity and cost of operating a business in Nevada. The bill expands the scope of behavior for which a citation may be issued to an employer for violating the Nevada Occupational Safety and Health Act (OSHA) by allowing the issuance of a citation based upon a determination that an employee "has access to a hazard" in the workplace.

Legislation passed in 2009 has significantly improved jobsite safety and enforcement of OSHA violations in Nevada, and I am a strong supporter of continued improvement in these areas. However, this bill creates ambiguous and misguided new requirements that will be difficult to enforce and burdensome to comply with. Because this bill will not proactively improve the conditions and safety of our workplaces, I veto it and return it to you without my approval.

Sincerely,

BRIAN SANDOVAL
Governor of Nevada

MESSAGES FROM THE GOVERNOR
OFFICE OF THE GOVERNOR

June 1, 2011

The Honorable John Oceguera, *Speaker of the Assembly*, Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

RE: Assembly Bill No. 456 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. 456, which is entitled:

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.

This bill alters requirements for graduation from high school. In order to receive a standard high school diploma, students must pass all portions of the Nevada High School Proficiency Examination (HSPE) and meet certain other district and state requirements. Approval of Assembly Bill No. 456 would allow students to graduate from high school even if they continue to fail one subject area of the HSPE, so long as they earn at least a 2.75 grade point average, satisfy minimum attendance requirements, do not have any pending disciplinary actions, and obtain a cumulative passing score on the HSPE.

Supporters of the bill point out that some students cannot pass the math portion of the HSPE, but these students are otherwise proficient in all other subjects areas and do well in school. While personally compelling, this argument lacks a broad policy implication; if the number of students is as small as has been represented, other remedies may exist besides a wholesale change in graduation requirements. The bill does not address the fact that Nevada's graduation rates and grade-level performance are amongst the worst in the nation. It similarly fails to address why an achievement gap exists for a few students on certain portions of the HSPE. Other measures already enacted this legislative session do more to change the status quo. For example, Assembly Bill No. 290 will allow the principal of a high school to postpone administration of the math and/or science portion of the HSPE for pupils who are not academically ready. These students will be enrolled in the appropriate course work and participate in a program designed to help students pass the exam.

Although this bill may allow more students to graduate from high school, it represents diminished expectations for our students and lower standards for obtaining a high school diploma in Nevada. In my State of the State address, I said that our education system emphasizes too many of the wrong things. Assembly Bill No. 456 is another example of this paradigm and would send the wrong message to our students.

I am committed to improving our education system and enhancing student achievement. Because this bill provides a way to hide or ignore a student achievement problem, rather than to fix it, I veto it and return it to you without my approval.

Sincerely,
BRIAN SANDOVAL
Governor of Nevada

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 30, 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. 171, 307, 332, 432, 453, 497, 511, 515, 546, 563, 572.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 24, Amendment No. 731; Senate Bill No. 40, Amendment No. 612; Senate Bill No. 92, Amendment No. 593; Senate Bill No. 191, Amendment No. 701; Senate Bill No. 204, Amendment No. 744; Senate Bill No. 254, Amendment No. 742; Senate Bill No. 307, Amendment No. 741; Senate Bill No. 432, Amendment No. 812, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 36, Amendment No. 823; Senate Bill No. 55, Amendment No. 625; Senate Bill No. 57, Amendment No. 735; Senate Bill No. 65, Amendment No. 645; Senate Bill No. 110, Amendment No. 594; Senate Bill No. 140, Amendments Nos. 670, 809; Senate Bill No. 151, Amendment No. 648; Senate Bill No. 238, Amendment No. 668; Senate Bill No. 251, Amendment No. 805; Senate Bill No. 282, Amendment No. 548; Senate Bill No. 304, Amendment No. 804; Senate Bill No. 321, Amendment No. 799;

Senate Bill No. 329, Amendment No. 826; Senate Bill No. 348, Amendment No. 663; Senate Bill No. 376, Amendment No. 732; Senate Bill No. 381, Amendments Nos. 730, 765; Senate Bill No. 400, Amendment No. 615; Senate Bill No. 419, Amendment No. 710, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 18, Amendment No. 651; Senate Bill No. 19, Amendment No. 652; Senate Bill No. 30, Amendment No. 626; Senate Bill No. 32, Amendment No. 665; Senate Bill No. 34, Amendments Nos. 666, 825; Senate Bill No. 82, Amendment No. 647; Senate Bill No. 98, Amendment No. 857; Senate Bill No. 249, Amendment No. 838; Senate Bill No. 262, Amendment No. 844; Senate Bill No. 267, Amendment No. 858; Senate Bill No. 268, Amendment No. 833; Senate Bill No. 289, Amendment No. 855; Senate Bill No. 294, Amendment No. 815; Senate Bill No. 315, Amendment No. 640; Senate Bill No. 365, Amendment No. 639; Senate Bill No. 472, Amendment No. 781, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 773 to Assembly Bill No. 179; Senate Amendment No. 611 to Assembly Bill No. 198; Senate Amendment No. 633 to Assembly Bill No. 238; Senate Amendment No. 705 to Assembly Bill No. 283; Senate Amendment No. 709 to Assembly Bill No. 289; Senate Amendment No. 747 to Assembly Bill No. 304; Senate Amendment No. 597 to Assembly Bill No. 309; Senate Amendment No. 759 to Assembly Bill No. 393; Senate Amendments Nos. 778, 619 to Assembly Bill No. 398; Senate Amendment No. 789 to Assembly Bill No. 419; Senate Amendment No. 750 to Assembly Bill No. 545.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Atkinson, Bustamante Adams and Goedhart as a Conference Committee concerning Assembly Bill No. 20.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Diaz, Anderson and Stewart as a Conference Committee concerning Assembly Bill No. 39.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Dondero Loop, Neal and Woodbury as a Conference Committee concerning Assembly Bill No. 40.

Also, I have the honor to inform your honorable body that the Assembly on this day appointed Assemblymen Bobzien, Mastroluca and Stewart as a Conference Committee concerning Assembly Bill No. 498.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 31, 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. 776 to Assembly Bill No. 2; Senate Amendment No. 831 to Assembly Bill No. 117; Senate Amendment No. 678 to Assembly Bill No. 291; Senate Amendment No. 695 to Assembly Bill No. 294; Senate Amendment No. 676 to Assembly Bill No. 374; Senate Amendment No. 696 to Assembly Bill No. 388.

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. 673 to Assembly Bill No. 53; Senate Amendment No. 634 to Assembly Bill No. 59; Senate Amendment No. 693 to Assembly Bill No. 136; Senate Amendment No. 764 to Assembly Bill No. 240; Senate Amendment No. 591 to Assembly Bill No. 257; Senate Amendment No. 677 to Assembly Bill No. 277; Senate Amendments Nos. 635, 656 to Assembly Bill No. 379.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, June 1, 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. 222, 449.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 745 to Assembly Bill No. 242; Senate Amendment No. 777 to Assembly Bill No. 258; Senate Amendment No. 856 to Assembly Bill No. 260; Senate Amendment No. 800 to Assembly Bill No. 265; Senate Amendments Nos. 679, 824 to Assembly Bill No. 273; Senate Amendment No. 706 to Assembly Bill No. 308; Senate Amendment No. 714 to Assembly Bill No. 322; Senate Amendment No. 675 to Assembly Bill No. 328; Senate Amendment No. 631 to Assembly Bill No. 413; Senate Amendment No. 834 to Assembly Bill No. 452; Senate Amendment No. 749 to Assembly Bill No. 471.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendments Nos. 617, 772 to Assembly Bill No. 77; Senate Amendment No. 685 to Assembly Bill No. 81; Senate Amendment No. 690 to Assembly Bill No. 433.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which was re-referred Senate Bill No. 320, 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*

MOTIONS, RESOLUTIONS AND NOTICES

Senate Resolution No. 5.

Resolution read.

Senator Parks moved the adoption of the resolution.

Remarks by Senator Parks.

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

Senate Resolution No. 5 designates the Senate members and alternates of the Legislative Commission for the 2011 and 2013 biennium. The Resolution also includes a procedure for requesting an alternate to replace a regular member who will be absent from the meeting. The members are Senators Horsford, Leslie, Denis, Roberson, Halseth and Settelmeyer. The first alternates are Senators Wiener, Schneider, Lee, Hardy, Gustavson and Brower. The second alternates are Senators Copening, Parks, Breeden, McGinness, Cegavske and Kieckhefer. Alternate members will be requested to attend in the order of their numerical designation.

Resolution adopted.

Senator Wiener moved that Senate Bill No. 164 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

Senator Horsford moved that all necessary rules be suspended and that Senate Bill No. 320, just reported out of committee, be placed on the Second Reading File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 171.

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

Motion carried.

Assembly Bill No. 222.

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

Motion carried.

Assembly Bill No. 307.

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

Motion carried.

Assembly Bill No. 332.

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

Motion carried.

Assembly Bill No. 432.

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

Motion carried.

Assembly Bill No. 449.

Senator Wiener moved that the bill be referred to the Select Committee on Economic Growth and Employment.

Motion carried.

Assembly Bill No. 453.

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

Motion carried.

Assembly Bill No. 497.

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

Motion carried.

Assembly Bill No. 511.

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

Motion carried.

Assembly Bill No. 515.

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

Motion carried.

Assembly Bill No. 546.

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

Motion carried.

Assembly Bill No. 563.

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

Motion carried.

Assembly Bill No. 572.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 211.

Bill read second time and ordered to third reading.

Senate Bill No. 418.

Bill read second time and ordered to third reading.

Assembly Bill No. 48.

Bill read second time and ordered to third reading.

Assembly Bill No. 100.

Bill read second time and ordered to third reading.

Assembly Bill No. 148.

Bill read second time and ordered to third reading.

Assembly Bill No. 247.

Bill read second time and ordered to third reading.

Assembly Bill No. 531.

Bill read second time and ordered to third reading.

Assembly Bill No. 570.

Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 129.

Bill read third time.

Roll call on Senate Bill No. 129:

YEAS—21.

NAYS—None.

Senate Bill No. 129 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 340.

Bill read third time.

Roll call on Senate Bill No. 340:

YEAS—21.

NAYS—None.

Senate Bill No. 340 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 528.

Bill read third time.

Roll call on Assembly Bill No. 528:

YEAS—20.

NAYS—Schneider.

Assembly Bill No. 528 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Finance:

Senate Bill No. 502—AN ACT relating to local improvements; authorizing the acquiring, improving, equipping, operating, maintaining and financing of a medical tourism and health care project within a tourism improvement district in certain counties; requiring the Commission on Tourism to adopt regulations relating to such a project; authorizing the imposition of a surcharge in certain counties on the amount charged for any items or services related to a minor league baseball stadium project or an event facility; providing for the use of the proceeds of such a surcharge; and providing other matters properly relating thereto.

Senator Kihuen moved that the bill be referred to the Select Committee on Economic Growth and Employment.

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 12:44 p.m.

SENATE IN SESSION

At 1:33 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 320 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 77.

The following Assembly amendment was read:

Amendment No. 646.

"SUMMARY—Revises provisions relating to notaries public. (BDR 19-404)"

"AN ACT relating to notaries public; ~~subjecting a person to punishment for a category C felony if the person knowingly submits an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact;~~ revising provisions relating to the requirements for appointment as a notary public, storage of the stamp and journal of a notary public, documentation of notarial acts, and liability and penalties for certain misconduct and violations of law by a notary public or an employer of a notary public; prohibiting a notary public from performing a notarial act on certain documents or from making or noting a protest of a negotiable instrument under certain circumstances; authorizing the Secretary of State to impose a civil penalty for certain violations; ~~providing a penalty;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Notaries public are appointed by and subject to the authority of the Secretary of State pursuant to the provisions of chapter 240 of NRS. ~~Section 1 of this bill makes it a category C felony for a person applying for appointment as a notary public to knowingly submit an application that contains a substantial and material misstatement or omission of fact.~~

Section 2 of this bill requires, if required by the Secretary of State, a person applying for appointment as a notary public to submit with the application a complete set of his or her fingerprints and a fee. **Sections 3 and 5** of this bill require a notary public to keep his or her stamp and journal in a secure location when not using the stamp or journal. **Section 5** also revises provisions relating to the documentation of notarial acts performed: (1) at the same time and for the same person; or (2) for a person for whom a notary public has performed a notarial act within the previous 6 months. **Section 4** of this bill prohibits a notary public from performing a notarial act on a document that is not completely filled out and signed and prohibits the notary public from making or noting a protest of a negotiable instrument under certain circumstances. **Section 6** of this bill amends provisions relating to penalties for violations of law by notaries public and employers of notaries public.

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

Section 1. ~~NRS 240.010 is hereby amended to read as follows:~~
~~240.010 1. The Secretary of State may appoint notaries public in this State.~~
~~2. The Secretary of State shall not appoint as a notary public a person:~~
~~(a) Who submits an application containing a substantial and material misstatement or omission of fact.~~
~~(b) Whose previous appointment as a notary public in this State has been revoked.~~

~~—(c) Who, except as otherwise provided in subsection 3, has been convicted of;~~

~~—(1) A crime involving moral turpitude; or~~

~~—(2) Burglary, conversion, embezzlement, extortion, forgery, fraud, identity theft, larceny, obtaining money under false pretenses, robbery or any other crime involving misappropriation of the identity or property of another person or entity;~~

~~—if the Secretary of State is aware of such a conviction before the Secretary of State makes the appointment.~~

~~—(d) Against whom a complaint that alleges a violation of a provision of this chapter is pending.~~

~~—(e) Who has not submitted to the Secretary of State proof satisfactory to the Secretary of State that the person has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.~~

~~—3. A person who has been convicted of a crime involving moral turpitude may apply for appointment as a notary public if the person provides proof satisfactory to the Secretary of State that:~~

~~—(a) More than 10 years have elapsed since the date of the person's release from confinement or the expiration of the period of his or her parole, probation or sentence, whichever is later;~~

~~—(b) The person has made complete restitution for his or her crime involving moral turpitude, if applicable;~~

~~—(c) The person possesses his or her civil rights; and~~

~~—(d) The crime for which the person was convicted is not one of the crimes enumerated in subparagraph (2) of paragraph (c) of subsection 2.~~

~~—4. A notary public may cancel his or her appointment by submitting a written notice to the Secretary of State.~~

~~—5. It is unlawful for a person to:~~

~~—(a) Represent himself or herself as a notary public appointed pursuant to this section if the person has not received a certificate of appointment from the Secretary of State pursuant to this chapter.~~

~~—(b) Submit an application for appointment as a notary public that contains a substantial and material misstatement or omission of fact.~~

~~—6. The Secretary of State may request that the Attorney General bring an action to enjoin any violation of paragraph (a) of subsection 5.~~

~~—7. A person who knowingly violates the provisions of paragraph (b) of subsection 5 is guilty of a category C felony and shall be punished as provided in NRS 193.130.] (Deleted by amendment.)~~

Sec. 2. NRS 240.030 is hereby amended to read as follows:

240.030 1. Each person applying for appointment as a notary public must:

(a) At the time the applicant submits his or her application, pay to the Secretary of State \$35.

(b) Take and subscribe to the oath set forth in Section 2 of Article 15 of the Constitution of the State of Nevada as if the applicant were a public officer.

(c) Submit to the Secretary of State proof satisfactory to the Secretary of State that the applicant has enrolled in and successfully completed a course of study provided pursuant to NRS 240.018.

(d) Enter into a bond to the State of Nevada in the sum of \$10,000, to be filed with the clerk of the county in which the applicant resides or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the applicant maintains a place of business or is employed. The applicant must submit to the Secretary of State a certificate issued by the appropriate county clerk which indicates that the applicant filed the bond required pursuant to this paragraph.

(e) If required by the Secretary of State, submit:

(1) A complete set of the fingerprints of the applicant and written permission authorizing the Secretary of State 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

(2) A fee established by regulation of the Secretary of State which must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

2. In addition to the requirements set forth in subsection 1, an applicant for appointment as a notary public who resides in an adjoining state must submit to the Secretary of State with the application:

(a) An affidavit setting forth the adjoining state in which the applicant resides, the applicant's mailing address and the address of the applicant's place of business or employment that is located within the State of Nevada;

(b) A copy of the applicant's state business license issued pursuant to chapter 76 of NRS and any business license required by the local government where the business is located, if the applicant is self-employed; and

(c) Unless the applicant is self-employed, a copy of the state business license of the applicant's employer, a copy of any business license of the applicant's employer that is required by the local government where the business is located and an affidavit from the applicant's employer setting forth the facts which show that the employer regularly employs the applicant at an office, business or facility which is located within the State of Nevada.

3. In completing an application, bond, oath or other document necessary to apply for appointment as a notary public, an applicant must not be required to disclose his or her residential address or telephone number on any such document which will become available to the public.

4. The bond, together with the oath, must be filed and recorded in the office of the county clerk of the county in which the applicant resides when the applicant applies for the appointment or, if the applicant is a resident of an adjoining state, with the clerk of the county in this State in which the

applicant maintains a place of business or is employed. On a form provided by the Secretary of State, the county clerk shall immediately certify to the Secretary of State that the required bond and oath have been filed and recorded. Upon receipt of the application, fee and certification that the required bond and oath have been filed and recorded, the Secretary of State shall issue a certificate of appointment as a notary public to the applicant.

5. The term of a notary public commences on the effective date of the bond required pursuant to paragraph (d) of subsection 1. A notary public shall not perform a notarial act after the effective date of the bond unless the notary public has been issued a certificate of appointment.

6. Except as otherwise provided in this subsection, the Secretary of State shall charge a fee of \$10 for each duplicate or amended certificate of appointment which is issued to a notary. If the notary public does not receive an original certificate of appointment, the Secretary of State shall provide a duplicate certificate of appointment without charge if the notary public requests such a duplicate within 60 days after the date on which the original certificate was issued.

Sec. 3. NRS 240.040 is hereby amended to read as follows:

240.040 1. The statement required by paragraph (d) of subsection 1 of NRS 240.1655 must:

(a) Be imprinted in indelible, photographically reproducible ink with a rubber or other mechanical stamp; and

(b) Set forth:

(1) The name of the notary public;

(2) The phrase "Notary Public, State of Nevada";

(3) The date on which the appointment of the notary public expires;

(4) The number of the certificate of appointment of the notary public;

(5) If the notary public so desires, the Great Seal of the State of Nevada; and

(6) If the notary public is a resident of an adjoining state, the word "nonresident."

2. After July 1, 1965, an embossed notarial seal is not required on notarized documents.

3. The stamp required pursuant to subsection 1 must:

(a) Be a rectangle, not larger than 1 inch by 2 1/2 inches, and may contain a border design; and

(b) Produce a legible imprint.

4. A notary public shall not affix his or her stamp over printed material.

5. ***A notary public shall keep his or her stamp in a secure location during any period in which the notary public is not using the stamp to perform a notarial act.***

6. As used in this section, "mechanical stamp" includes an imprint made by a computer or other similar technology.

Sec. 4. NRS 240.075 is hereby amended to read as follows:

240.075 A notary public shall not:

1. Influence a person to enter or not enter into a lawful transaction involving a notarial act performed by the notary public.

2. Certify an instrument containing a statement known by the notary public to be false.

3. Perform any act as a notary public with intent to deceive or defraud, including, without limitation, altering the journal that the notary public is required to keep pursuant to NRS 240.120.

4. Endorse or promote any product, service or offering if his or her appointment as a notary public is used in the endorsement or promotional statement.

5. Certify photocopies of a certificate of birth, death or marriage or a divorce decree.

6. Allow any other person to use his or her notary's stamp.

7. Allow any other person to sign the notary's name in a notarial capacity.

8. Perform a notarial act on a document that contains only a signature.

9. *Perform a notarial act on a document, including a form that requires the signer to provide information within blank spaces, unless the document has been filled out completely and has been signed.*

10. *Make or note a protest of a negotiable instrument unless the notary public is employed by a depository institution and the protest is made or noted within the scope of that employment. As used in this subsection, "depository institution" has the meaning ascribed to it in NRS 657.037.*

Sec. 5. NRS 240.120 is hereby amended to read as follows:

240.120 1. ~~{Each}~~ ***Except as otherwise provided in subsection 2, each*** notary public shall keep a journal in his or her office in which the notary public shall enter for each notarial act performed, at the time the act is performed:

(a) The fees charged, if any;

(b) The title of the document;

(c) The date on which the notary public performed the service;

(d) ~~{The}~~ ***Except as otherwise provided in subsection 3, the*** name and signature of the person whose signature is being notarized;

(e) ~~{A}~~ ***Subject to the provisions of subsection 4, a*** description of the evidence used by the notary public to verify the identification of the person whose signature is being notarized;

(f) An indication of whether the notary public administered an oath; and

(g) The type of certificate used to evidence the notarial act, as required pursuant to NRS 240.1655.

2. *A notary public may make one entry in the journal which documents more than one notarial act if the notarial acts documented are performed:*

(a) For the same person and at the same time; and

(b) On one document or on similar documents.

3. *When taking an acknowledgment for a person, a notary public need not require the person to sign the journal if the notary public has*

performed a notarial act for the person within the previous 6 months and the notary public has personal knowledge of the identity of the person.

4. *If, pursuant to subsection 3, a notary public does not require a person to sign the journal, the notary public shall enter "known personally" as the description required to be entered into the journal pursuant to paragraph (e) of subsection 1.*

5. If the notary verifies the identification of the person whose signature is being notarized on the basis of a credible witness, the notary public shall:

(a) Require the witness to sign the journal in the space provided for the description of the evidence used; and

(b) Make a notation in the journal that the witness is a credible witness.

~~{3-}~~ **6.** The journal must:

(a) Be open to public inspection.

(b) Be in a bound volume with preprinted page numbers.

~~{4-}~~ **7.** A notary public shall, upon request and payment of the fee set forth in NRS 240.100, provide a certified copy of an entry in his or her journal.

~~{5-}~~ **8.** *A notary public shall keep his or her journal in a secure location during any period in which the notary public is not making an entry or notation in the journal pursuant to this section.*

9. A notary public shall retain each journal that the notary public has kept pursuant to this section until 7 years after the date on which he or she ceases to be a notary public.

~~{6-}~~ **10.** A notary public shall file a report with the Secretary of State and the appropriate law enforcement agency if the journal of the notary public is lost or stolen.

~~{7-}~~ **11.** The provisions of this section do not apply to a person who is authorized to perform a notarial act pursuant to paragraph (b), (c) or (d) of subsection 1 of NRS 240.1635.

Sec. 6. NRS 240.150 is hereby amended to read as follows:

240.150 1. For misconduct or neglect in a case in which a notary public appointed pursuant to the authority of this State may act, either by the law of this State or of another state, territory or country, or by the law of nations, or by commercial usage, the notary public is liable on his or her official bond to the parties injured thereby, for all the damages sustained.

2. The employer of a notary public *may be assessed a civil penalty by the Secretary of State of not more than \$2,000 for each violation specified in subsection 4 committed by the notary public, and the employer* is liable for any damages proximately caused by the misconduct of the notary public, if:

(a) The notary public was acting within the scope of his or her employment at the time the notary public engaged in the misconduct; and

(b) The employer of the notary public consented to the misconduct of the notary public.

3. The Secretary of State may refuse to appoint or may suspend or revoke the appointment of a notary public who fails to provide to the Secretary of State, within a reasonable time, information that the Secretary of State requests from the notary public in connection with a complaint which alleges a violation of this chapter.

4. Except as otherwise provided in this chapter, for any willful violation or neglect of duty or other violation of this chapter, or upon proof that ~~the~~ **a** notary public has been convicted of a crime ~~involving moral turpitude:~~

—(a) A notary public or other person who violates a provision of this chapter may be fined not more than \$2000 for each violation;

—(b) *described in paragraph (c) of subsection 2 of NRS 240.010:*

(a) The appointment of the notary public may be suspended for a period determined by the Secretary of State, but not exceeding the time remaining on the appointment;

~~{(c)}~~ (b) The appointment of the notary public may be revoked ~~;~~ or
~~{(d)}~~ *after a hearing;* or

(c) The notary public may be ~~fined and his or her appointment may be:~~

—(1) Revoked; or

—(2) Suspended for a period determined by the Secretary of State.] ***assessed a civil penalty of not more than \$2,000 for each violation.***

5. If the Secretary of State revokes or suspends the appointment of a notary public pursuant to this section, the Secretary of State shall:

(a) Notify the notary public in writing of the revocation or suspension; and

(b) Cause notice of the revocation or suspension to be published ~~in a newspaper of general circulation in the county in which the notary public resides or works.~~ ***on the website of the Secretary of State.***

6. Except as otherwise provided by law, the Secretary of State may ~~impose the fine~~ ***assess the civil penalty*** that is authorized pursuant to this section upon a notary public whose appointment has expired if the notary public committed the violation that justifies the ~~fine~~ ***civil penalty*** before his or her appointment expired.

7. The appointment of a notary public may be suspended or revoked by the Secretary of State pending a hearing if the Secretary of State believes it is in the public interest or is necessary to protect the public.

Sec. 6.5. NRS 240.201 is hereby amended to read as follows:

240.201 1. An electronic notary public shall keep a journal of each electronic notarial act which includes, without limitation, the requirements of subsections 1 and ~~{2}~~ **5** of NRS 240.120.

2. The Secretary of State may suspend the appointment of an electronic notary public who fails to produce any journal entry within 10 days after receipt of a request from the Secretary of State.

3. Upon resignation, revocation or expiration of an appointment as an electronic notary public, all notarial records required pursuant to NRS 240.001 to 240.206, inclusive, must be delivered to the Secretary of State.

Sec. 7. This act becomes effective upon passage and approval for the purpose of adopting regulations by the Secretary of State pursuant to the amendatory provisions of section 2 of this act and on January 1, 2012, for all other purposes.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 77.

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 233.

The following Assembly amendment was read:

Amendment No. 699.

"SUMMARY—~~Establishes the Office of Grant Procurement, Coordination and Management in the Department of Administration.~~ **Makes various changes concerning the administration of grants.** (BDR 18-1058)"

"AN ACT relating to grants; establishing the Office of Grant Procurement, Coordination and Management in the Department of Administration; setting forth the duties of the Chief of the Office; requiring all state ~~and local~~ agencies to notify the Office of any grants for which the agency applies and any which they receive; **authorizing state agencies, commissions and departments to hold certain hearings relating to grants; authorizing state departments, institutions and agencies to take certain actions to carry out a grant before receiving approval from the Interim Finance Committee; increasing the monetary thresholds at which certain approval of revisions of work programs and acceptance of gifts and grants is required; increasing the amount of certain gifts and grants that certain state agencies may accept under certain circumstances;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the Department of Administration, divides the Department into various divisions and requires the Director of the Department to appoint Chiefs of those divisions. (NRS 232.213, 232.215) **Sections 9 and 10** of this bill establish the Office of Grant Procurement, Coordination and Management in the Department and require the Director to appoint the Chief of the Office. **Section 2** of this bill sets forth the qualifications for the Chief. **Section 2.5 of this bill requires the Chief to employ two persons to assist him or her in carrying out the duties of the Office.** **Section 3** of this bill sets forth the duties of the Chief, which include: (1) researching and identifying federal grants which may be available to state ~~and local~~ agencies; ~~and local nonprofit organizations;~~ (2) writing grants for federal funds for state agencies; (3) coordinating with members of Congress representing this State to identify and manage available federal grants and programs; (4) seeking out grants and writing grant proposals for state agencies in Nevada; **and** (5) ~~compiling information about grants and~~

~~providing information to state and local agencies about grants for which they are eligible to apply; (6) keeping track of all the grants for which state and local agencies have applied and of all grants they have received, and, if practicable, coordinating with those state and local agencies that have received grants for similar projects to ensure they do not duplicate their efforts or services; and (7) seeking grants for which businesses can apply to develop projects in Nevada and offering to help those companies in applying for such grants. In addition, section 3 authorizes the Chief to write grants for federal funds for local agencies and local nonprofit organizations if he or she is requested to do so by the local agency or local nonprofit organization.]~~

Section 4 of this bill requires all state ~~and local~~ agencies to notify the Office of any grants for which they apply and any grants which they receive.

If a public hearing is required in connection with a grant from the Federal Government to a state agency, commission or department, section 11.3 of this bill authorizes the agency, commission or department to either request that the hearing be included as an agenda item at a meeting of the Interim Finance Committee or conduct the hearing itself. Section 11.5 of this bill authorizes a department, institution or agency of the Executive Department of State Government which has received a grant that requires approval from the Interim Finance Committee to take steps to carry out the grant before receiving such approval, including, without limitation, classifying positions, recruiting for positions, advertising for bids or requesting proposals if the department, institution or agency includes a statement in the notice or advertisement that any position or contract is contingent upon approval by the Interim Finance Committee.

Under the State Budget Act, a department, institution or agency of the Executive Department of State Government is required to obtain approval from the Interim Finance Committee, except in certain limited circumstances, before revising a work program in an amount more than \$20,000 if the revision will increase or decrease by 10 percent or \$50,000, whichever is less, the expenditure level approved by the Legislature for any of the allotments within the work program. (NRS 353.220) Section 11.7 of this bill increases the monetary threshold to an amount of more than \$30,000 if the revision will increase by 10 percent or \$75,000, whichever is less, the expenditure level approved by the Legislature for any of the allotments within the work program. Section 11.9 of this bill increases, under certain circumstances, the maximum amount of gifts, including grants from nongovernmental sources, that certain state agencies can accept from \$10,000 to \$20,000 and the maximum amount of governmental grants that such an agency can accept from \$100,000 to \$150,000.

~~[Section 12 of this bill requires the Chief of the Office to develop suggestions and proposals for an incentive program to encourage businesses~~

~~to apply for grants to develop projects in Nevada and, on or before January 1, 2013, to submit a report setting forth those suggestions and proposals, together with any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.]~~

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

Section 1. Chapter 232 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. *The person appointed to serve as the Chief of the Office of Grant Procurement, Coordination and Management must have:*

(a) Extensive expertise and experience in applying for and receiving grants;

(b) Specialized knowledge of the process of grant writing and approval in the public and private sector; and

(c) Proven experience in designing and managing programs which rely solely or partially upon money received from grants.

2. The Chief shall devote his or her entire time and attention to the business of his or her office and shall not engage in any other gainful employment or occupation.

Sec. 2.5. 1. The Chief of the Office of Grant Procurement, Coordination and Management shall employ two persons to serve in the unclassified service of the State for the purposes set forth in this section.

2. A person employed pursuant to this section shall, under the direction of the Chief of the Office of Grant Procurement, Coordination and Management, assist the Chief in carrying out the provisions of sections 2 to 6, inclusive, of this act.

Sec. 3. 1. *The Chief of the Office of Grant Procurement, Coordination and Management shall:*

(a) Research and identify federal grants which may be available to state ~~for local~~ agencies. ~~[and local nonprofit organizations.]~~

(b) Write grants for federal funds for state agencies.

(c) Coordinate with the members of Congress representing this State to combine efforts relating to identifying and managing available federal grants and related programs.

(d) If requested by a state agency, research the availability of grants and write grant proposals and applications for the state agency, giving priority to grants:

(1) For the Department of Health and Human Services;

(2) For the Office of Energy; and

(3) Which may facilitate economic development in this State . ~~for~~ and
~~*(2) For research and development at a university, state college, community college or research facility within the Nevada System of Higher Education.]*~~

(e) ~~[Create and maintain an Internet website which sets forth information relating to grants, including, without limitation, contacts for information and~~

~~applications for grants, resources for applying for and receiving grants, information concerning grants that have been applied for and awarded to state and local agencies, and notifications of opportunities for grants.~~

~~—(f) To the greatest extent practicable, ensure that state ~~and local~~ agencies are aware of any grant opportunities for which they are or may be eligible.~~

~~—(g) Advise~~

(f) If requested by the Director of a state agency, advise the Director and the state ~~and local agencies~~ agency concerning the requirements for receiving and managing grants.

~~—(h) Coordinate~~

(g) To the greatest extent practicable, coordinate with ~~all~~ state and local agencies that have received grants for similar projects to ensure that the efforts and services of those state and local agencies are not duplicated.

~~—(i) Seek grants for which businesses may apply that may assist those businesses in developing projects in this State and offer to assist those businesses in applying for such grants.~~

~~—(j)~~ (h) On or before January 1 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report regarding all activity relating to the application for, receipt of and use of grants in this State.

~~2. ~~If requested by a local agency or local nonprofit organization, the Chief may write grant proposals and applications for federal funds for the local agency or local nonprofit organization.~~~~

~~—3.~~ The Chief may adopt regulations to carry out the provisions of this section and sections 4 and 5 of this act.

Sec. 4. In addition to any other requirement concerning applying for or receiving a grant, a state ~~for local~~ agency shall notify the Office of Grant Procurement, Coordination and Management, on a form prescribed by the Office, of any grant:

1. For which the state ~~for local~~ agency applies; and
2. Which the state ~~for local~~ agency receives.

Sec. 5. The Office of Grant Procurement, Coordination and Management may apply for and receive any gift, grant, contribution or other money from any source to carry out the provisions of sections 2 to 6, inclusive, of this act.

Sec. 6. 1. The Account for the Office of Grant Procurement, Coordination and Management is hereby created in the State General Fund. The Account must be administered by the Chief of the Office.

2. Any money accepted pursuant to section 5 of this act must be deposited in the Account.

3. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.

4. The money in the Account which is donated for a purpose specified by the donor, within the scope of the duties of the Chief of the Office of

Grant Procurement, Coordination and Management, must only be used for that purpose. If no purpose is specified, the money in the Account must only be used to carry out the duties of the Chief.

5. Claims against the Account must be paid as other claims against the State are paid.

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 232.212 is hereby amended to read as follows:

232.212 As used in NRS 232.212 to 232.2195, inclusive, ***and sections 2 to 6, inclusive, of this act,*** unless the context requires otherwise:

1. "Department" means the Department of Administration.

2. "Director" means the Director of the Department.

Sec. 9. NRS 232.213 is hereby amended to read as follows:

232.213 1. The Department of Administration is hereby created.

2. The Department consists of a Director and the following : ~~{divisions:}~~

(a) Budget Division.

(b) Risk Management Division.

(c) Hearings Division, which consists of hearing officers, compensation officers and appeals officers.

(d) Buildings and Grounds Division.

(e) Purchasing Division.

(f) Administrative Services Division.

(g) Division of Internal Audits.

(h) Office of Grant Procurement, Coordination and Management.

3. The Director may establish a Motor Pool Division or may assign the functions of the State Motor Pool to one of the other divisions of the Department.

Sec. 10. NRS 232.215 is hereby amended to read as follows:

232.215 The Director:

1. Shall appoint a Chief of the:

(a) Risk Management Division;

(b) Buildings and Grounds Division;

(c) Purchasing Division;

(d) Administrative Services Division;

(e) Division of Internal Audits; ~~{and}~~

(f) Office of Grant Procurement, Coordination and Management; and

(g) Motor Pool Division, if separately established.

2. Shall appoint a Chief of the Budget Division, or may serve in this position if the Director has the qualifications required by NRS 353.175.

3. Shall serve as Chief of the Hearings Division and shall appoint the hearing officers and compensation officers. The Director may designate one of the appeals officers in the Division to supervise the administrative, technical and procedural activities of the Division.

4. Is responsible for the administration, through the divisions of the Department, of the provisions of chapters 331, 333 and 336 of NRS, NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive,

and all other provisions of law relating to the functions of the divisions of the Department.

5. Is responsible for the administration of the laws of this State relating to the negotiation and procurement of medical services and other benefits for state agencies.

6. Has such other powers and duties as are provided by law.

Sec. 11. NRS 232.2165 is hereby amended to read as follows:

232.2165 1. The Chief of:

- (a) The Buildings and Grounds Division;
- (b) The Purchasing Division;
- (c) The Administrative Services Division;
- (d) The Division of Internal Audits; and
- (e) If separately established, the Motor Pool Division,

↳ of the Department serves at the pleasure of the Director, but, except as otherwise provided in subsection 2, for all purposes except removal is in the classified service of the State.

2. The Chief of the Motor Pool Division, if separately established, and the Chief of the Division of Internal Audits are in the unclassified service of the State.

3. *The Chief of the Office of Grant Procurement, Coordination and Management is in the unclassified service of the State and serves at the pleasure of the Director.*

Sec. 11.1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 11.3 and 11.5 of this act.

Sec. 11.3. If a public hearing is required in connection with a grant from the Federal Government to a state agency, commission or department, the agency, commission or department may:

1. Request that the hearing be included as an item on the agenda of a meeting of the Interim Finance Committee; or

2. Conduct the hearing in accordance with chapter 241 of NRS.

Sec. 11.5. A department, institution or agency of the Executive Department of the State Government that receives a grant for a program which requires the approval of the Interim Finance Committee and which requires the department, institution or agency to take action to carry out the program, including, without limitation, classifying positions, recruiting for positions, advertising for bids and requesting proposals, may begin to carry out the program before obtaining that approval if the department, institution or agency includes a statement in any notice or advertisement that the position or contract is contingent upon the approval of the Interim Finance Committee.

Sec. 11.7. NRS 353.220 is hereby amended to read as follows:

353.220 1. The head of any department, institution or agency of the Executive Department of the State Government, whenever he or she deems it necessary because of changed conditions, may request the revision of the work program of his or her department, institution or agency at any time

during the fiscal year, and submit the revised program to the Governor through the Chief with a request for revision of the allotments for the remainder of that fiscal year.

2. Every request for revision must be submitted to the Chief on the form and with supporting information as the Chief prescribes.

3. Before encumbering any appropriated or authorized money, every request for revision must be approved or disapproved in writing by the Governor or the Chief, if the Governor has by written instrument delegated this authority to the Chief.

4. Whenever a request for the revision of a work program of a department, institution or agency in an amount more than ~~the \$20,000~~ \$30,000 would, when considered with all other changes in allotments for that work program made pursuant to NRS 353.215 and subsections 1, 2 and 3 of this section, increase or decrease by 10 percent or ~~the \$50,000~~ \$75,000, whichever is less, the expenditure level approved by the Legislature for any of the allotments within the work program, the request must be approved as provided in subsection 5 before any appropriated or authorized money may be encumbered for the revision.

5. If a request for the revision of a work program requires additional approval as provided in subsection 4 and:

(a) Is necessary because of an emergency as defined in NRS 353.263 or for the protection of life or property, the Governor shall take reasonable and proper action to approve it and shall report the action, and his or her reasons for determining that immediate action was necessary, to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes approval of the revision, and other provisions of this chapter requiring approval before encumbering money for the revision do not apply.

(b) The Governor determines that the revision is necessary and requires expeditious action, he or she may certify that the request requires expeditious action by the Interim Finance Committee. Whenever the Governor so certifies, the Interim Finance Committee has 15 days after the request is submitted to its Secretary within which to consider the revision. Any request for revision which is not considered within the 15-day period shall be deemed approved.

(c) Does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the request is submitted to its Secretary within which to consider the revision. Any request which is not considered within the 45-day period shall be deemed approved.

6. The Secretary shall place each request submitted pursuant to paragraph (b) or (c) of subsection 5 on the agenda of the next meeting of the Interim Finance Committee.

7. In acting upon a proposed revision of a work program, the Interim Finance Committee shall consider, among other things:

- (a) The need for the proposed revision; and
- (b) The intent of the Legislature in approving the budget for the present biennium and originally enacting the statutes which the work program is designed to effectuate.

Sec. 11.9. NRS 353.335 is hereby amended to read as follows:

353.335 1. Except as otherwise provided in subsections 5 and 6, a state agency may accept any gift or grant of property or services from any source only if it is included in an act of the Legislature authorizing expenditures of nonappropriated money or, when it is not so included, if it is approved as provided in subsection 2.

2. If:

(a) Any proposed gift or grant is necessary because of an emergency as defined in NRS 353.263 or for the protection or preservation of life or property, the Governor shall take reasonable and proper action to accept it and shall report the action and his or her reasons for determining that immediate action was necessary to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes acceptance of the gift or grant, and other provisions of this chapter requiring approval before acceptance do not apply.

(b) The Governor determines that any proposed gift or grant would be forfeited if the State failed to accept it before the expiration of the period prescribed in paragraph (c), the Governor may declare that the proposed acceptance requires expeditious action by the Interim Finance Committee. Whenever the Governor so declares, the Interim Finance Committee has 15 days after the proposal is submitted to its Secretary within which to approve or deny the acceptance. Any proposed acceptance which is not considered within the 15-day period shall be deemed approved.

(c) The proposed acceptance of any gift or grant does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the proposal is submitted to its Secretary within which to consider acceptance. Any proposed acceptance which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted to the Secretary pursuant to paragraph (b) or (c) of subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed gift or grant, the Interim Finance Committee shall consider, among other things:

- (a) The need for the facility or service to be provided or improved;
- (b) Any present or future commitment required of the State;
- (c) The extent of the program proposed; and
- (d) The condition of the national economy, and any related fiscal or monetary policies.

5. A state agency may accept:

(a) Gifts, including grants from nongovernmental sources, not exceeding ~~(\$10,000)~~ **\$20,000** each in value; and

(b) Governmental grants not exceeding ~~(\$100,000)~~ **\$150,000** each in value,

➔ if the gifts or grants are used for purposes which do not involve the hiring of new employees and if the agency has the specific approval of the Governor or, if the Governor delegates this power of approval to the Chief of the Budget Division of the Department of Administration, the specific approval of the Chief.

6. This section does not apply to:

(a) The Nevada System of Higher Education;

(b) The Department of Health and Human Services while acting as the state health planning and development agency pursuant to paragraph (d) of subsection 2 of NRS 439A.081 or for donations, gifts or grants to be disbursed pursuant to NRS 433.395; or

(c) Artifacts donated to the Department of Cultural Affairs.

Sec. 12. ~~{The Chief of the Office of Grant Procurement, Coordination and Management established pursuant to NRS 232.213, as amended by section 9 of this act, shall:~~

~~— 1. Develop suggestions and proposals for establishing an incentive system to encourage businesses to apply for grants to develop projects in this State pursuant to paragraph (i) of subsection 1 of section 3 of this act; and~~

~~— 2. On or before January 1, 2013, and in addition to or together with the report required pursuant to paragraph (j) of subsection 1 of section 3 of this act, submit a report setting forth those suggestions and proposals for establishing an incentive system, together with any suggestions for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.} (Deleted by amendment.)~~

Sec. 12.5. **NRS 353.345 is hereby repealed.**

Sec. 13. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

353.345 Approval of Interim Finance Committee required for allocation of money received under federal block grant. Whenever federal funding in the form of a categorical grant of a specific program administered by a state agency, commission or department is terminated and incorporated into a block grant from the Federal Government to the State of Nevada, the state agency, commission or department must obtain the approval of the Interim Finance Committee in order to allocate the money received from any block grant.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 233.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 361.

The following Assembly amendment was read:

Amendment No. 614.

"SUMMARY—Authorizes the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas. (BDR 48-285)"

"AN ACT relating to water; authorizing the issuance of a temporary permit to appropriate water to establish fire-resistant vegetative cover in certain areas; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes a person to apply to the State Engineer for the issuance of a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area. ~~Unless extended by the State Engineer, the~~ **The** duration of such a temporary permit is limited to 1 year. **Section 2** of this bill declares the use of water to prevent or reduce the impact of wildfires or to rehabilitate areas burned by wildfires as a policy of the State.

Sections 3-7 of this bill exempt an application for such a temporary permit from several requirements in existing law for applications for permits concerning water rights, including publication of notice of the application in a newspaper and authorization for the filing of protests against the granting of the application. This expedited process is similar to the process for the issuance of environmental permits by the State Engineer. (NRS 533.437-533.4377)

Section 8 of this bill requires the State Forester Firewarden, upon the request of the State Engineer, to review the plan for establishing the vegetative cover that is required to be submitted by the applicant for the temporary permit.

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person may apply for a temporary permit to appropriate water to establish vegetative cover that is resistant to fire in an area that has been burned by a wildfire or to prevent or reduce the impact of a wildfire in an area.

2. In addition to the information required by NRS 533.335, an applicant for a temporary permit shall submit to the State Engineer:

(a) A plan for establishing vegetative cover that is resistant to fire in the area;

(b) Any other information which is necessary for a full understanding of the necessity of the appropriation; and

(c) For:

(1) Examining and filing the application for the temporary permit, \$150.

(2) Issuing and recording the temporary permit, \$200.

3. The State Engineer may forward a plan submitted pursuant to subsection 2 to the State Forester Firewarden for his or her review and comments.

4. The State Engineer shall approve an application for a temporary permit if:

(a) The application is accompanied by the prescribed fees;

(b) The appropriation is in the public interest; and

(c) The appropriation does not impair water rights held by other persons.

5. A temporary permit issued pursuant to this section must not exceed 1 year in duration . f, but may be extended by the State Engineer in increments not to exceed 1 year in duration.]

Sec. 2. NRS 533.024 is hereby amended to read as follows:

533.024 The Legislature declares that:

1. It is the policy of this State:

(a) To encourage and promote the use of effluent, where that use is not contrary to the public health, safety or welfare, and where that use does not interfere with federal obligations to deliver water of the Colorado River.

(b) To recognize the importance of domestic wells as appurtenances to private homes, to create a protectable interest in such wells and to protect their supply of water from unreasonable adverse effects which are caused by municipal, quasi-municipal or industrial uses and which cannot reasonably be mitigated.

(c) To encourage the State Engineer to consider the best available science in rendering decisions concerning the available surface and underground sources of water in Nevada.

(d) To encourage and promote the use of water to prevent or reduce the spread of wildfire or to rehabilitate areas burned by wildfire, including, without limitation, through the establishment of vegetative cover that is resistant to fire.

2. The procedures in this chapter for changing the place of diversion, manner of use or place of use of water, and for confirming a report of conveyance, are not intended to have the effect of quieting title to or changing ownership of a water right and that only a court of competent jurisdiction has the power to determine conflicting claims to ownership of a water right.

Sec. 3. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 5 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published once a week for 4 consecutive weeks in a newspaper of general

circulation and printed and published in the county where the water is sought to be appropriated, a notice of the application which sets forth:

- (a) That the application has been filed.
- (b) The date of the filing.
- (c) The name and address of the applicant.
- (d) The name of the source from which the appropriation is to be made.
- (e) The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.
- (f) The purpose for which the water is to be appropriated.

➤ The publisher shall add thereto the date of the first publication and the date of the last publication.

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

- (a) For municipal, quasi-municipal or industrial use; and
- (b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➤ the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of the proposed well, to the owner's address as shown in the latest records of the county assessor. If there are not more than six such wells, notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before the State Engineer may consider the application.

4. The provisions of this section do not apply to an environmental permit ~~+~~ **or a temporary permit issued pursuant to section 1 of this act.**

Sec. 4. NRS 533.363 is hereby amended to read as follows:

533.363 1. Except as otherwise provided in subsection 2, if water for which a permit is requested is to be used in a county other than that county in which it is to be appropriated, or is to be diverted from or used in a different county than that in which it is currently being diverted or used, then the State Engineer shall give notice of the receipt of the request for the permit to:

(a) The board of county commissioners of the county in which the water for which the permit is requested will be appropriated or is currently being diverted or used; and

(b) The board of county commissioners of the county in which the water will be diverted or used.

2. The provisions of subsection 1 do not apply:

(a) To an environmental permit ~~[-]~~ *or a temporary permit issued pursuant to section 1 of this act.*

(b) If:

(1) The water is to be appropriated and used; or

(2) Both the current and requested place of diversion or use of the water are,

↳ within a single, contiguous parcel of real property.

3. A person who requests a permit to which the provisions of subsection 1 apply shall submit to each appropriate board of county commissioners a copy of the application and any information relevant to the request.

4. Each board of county commissioners which is notified of a request for a permit pursuant to this section shall consider the request at the next regular or special meeting of the board held not earlier than 3 weeks after the notice is received. The board shall provide public notice of the meeting for 3 consecutive weeks in a newspaper of general circulation in its county. The notice must state the time, place and purpose of the meeting. At the conclusion of the meeting the board may recommend a course of action to the State Engineer, but the recommendation is not binding on the State Engineer.

Sec. 5. NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of the applicant's:

(1) Intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) Financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and 11 and NRS 533.365, the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection 11, the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection 11, where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectable interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection 12, if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. If:

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

➤ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in subsection 10, a person who is a successor in interest to a protestant or an affected water right owner who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner of the water right or real property on which a domestic well is located had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in

the same manner as if the successor in interest were the former owner whose interest he or she succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer on a form provided by the State Engineer.

11. The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit ~~to~~ *or a temporary permit issued pursuant to section 1 of this act.*

12. The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

13. As used in this section:

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) "Domestic well" has the meaning ascribed to it in NRS 534.350.

Sec. 6. NRS 533.380 is hereby amended to read as follows:

533.380 1. Except as otherwise provided in subsection 5, in an endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,
➤ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, grant any number of extensions of time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by the State Engineer, but a single extension of time for a municipal or quasi-municipal use for a public water system, as defined in NRS 445A.235, must not exceed 5 years, and any other single extension of time must not exceed 1 year. An application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

↪ The State Engineer shall not grant an extension of time unless the State Engineer determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or public water company, requests an extension of time to apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

↪ if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit ~~[-]~~ **or a temporary permit issued pursuant to section 1 of this act.**

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is composed of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 7. NRS 533.400 is hereby amended to read as follows:

533.400 1. Except as otherwise provided in subsection 2, on or before the date set in the endorsement of a permit for the application of water to beneficial use, or on the date set by the State Engineer under a proper application for extension thereof, any person holding a permit from the State Engineer to appropriate the public waters of the State of Nevada, to change the place of diversion or the manner or place of use, shall file with the State Engineer a statement under oath, on a form prescribed by the State Engineer. The statement must include:

- (a) The name and post office address of the person making the proof.
- (b) The number and date of the permit for which proof is made.
- (c) The source of the water supply.
- (d) The name of the canal or other works by which the water is conducted to the place of use.
- (e) The name of the original person to whom the permit was issued.
- (f) The purpose for which the water is used.
- (g) If for irrigation, the actual number of acres of land upon which the water granted in the permit has been beneficially used, giving the same by 40-acre legal subdivisions when possible.
- (h) An actual measurement taken by a licensed state water right surveyor or an official or employee of the Office of the State Engineer of the water diverted for beneficial use.
- (i) The capacity of the works of diversion.
- (j) If for power, the dimensions and capacity of the flume, pipe, ditch or other conduit.
- (k) The average grade and difference in elevation between the termini of any conduit.
- (l) The number of months, naming them, in which water has been beneficially used.
- (m) The amount of water beneficially used, taken from actual measurements, together with such other data as the State Engineer may require to become acquainted with the amount of the appropriation for which the proof is filed.

2. The provisions of subsection 1 do not apply to a person holding an environmental permit ~~[-]~~ **or a temporary permit issued pursuant to section 1 of this act.**

Sec. 8. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

- (a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.
- (b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the

Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

(l) Upon the request of the State Engineer, review a plan submitted with an application for the issuance of a temporary permit pursuant to section 1 of this act.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrol officers, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 9. This act becomes effective upon passage and approval.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 361.

Motion carried by a constitutional majority.

Bill ordered enrolled.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 278, 338, 449, 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*

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bill Nos. 223, 236, 299, 323, 339; Assembly Bills Nos. 242, 258, 260, 265, 273, 308, 322, 328, 413, 471.

Senator Horsford moved that the Senate adjourn until Friday, June 3, 2011, at 11 a.m.

Motion carried.

Senate adjourned at 1:41 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate

THE ONE HUNDRED AND SEVENTEENTH DAY

CARSON CITY (Friday), June 3, 2011

Senate called to order at 11:48 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Pastor Albert Tilstra.

We, pray, O God, that You fill this sacred minute with meaning and make it an oasis for the refreshment of our souls, a window cleaning for our vision and a recharging of the batteries of our spirits.

Let us have less talking and more thinking, less work and more worship, less pressure and more worship, less pressure and more praying.

For if we are too busy to pray, we are far busier than we have any right to be.

In Your holy Name, we pray.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bill No. 486; Assembly Bills Nos. 497, 515, 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. 330, 402, 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 Judiciary, to which was referred Assembly Bill No. 259, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 341, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which were referred Senate Concurrent Resolution No. 5; Assembly Concurrent Resolution No. 10, has had the same under consideration, and begs leave to report the same back with the recommendation: Be adopted.

DAVID R. PARKS, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 2, 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. 567 to Assembly Bill No. 82; Senate Amendment No. 860 to Assembly Bill No. 225; Senate Amendment No. 861 to Assembly Bill No. 229; Senate Amendment No. 689 to Assembly Bill No. 337.

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. 658 to Assembly Bill No. 199.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

SECOND READING AND AMENDMENT

Senate Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 850.

"SUMMARY—Revises provisions governing certain motor carriers. (BDR 58-1051)"

"AN ACT relating to motor carriers; requiring ~~persons who wish to be employed as drivers for certain motor carriers subject to the jurisdiction of the Nevada Transportation Authority~~ **certain short-term lessors** to obtain a ~~driver's permit~~ **certificate of public convenience and necessity** issued by the **Nevada Transportation** Authority; **requiring the suspension of the drivers' licenses of certain persons who fail to pay administrative fines to the Authority**; providing a fee; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the regulation of certain motor carriers in this State by the Nevada Transportation Authority. (NRS 706.011-706.791) This bill requires a ~~person who wishes to be employed or enter into a contract or lease as a driver for certain motor carriers subject to the jurisdiction of the Authority~~ **short-term lessor that offers, arranges for or allows the use of a paid driver, whether directly or through an affiliated person**, to obtain a ~~driver's permit~~ **certificate of public convenience and necessity** issued by the Authority. ~~This bill also establishes~~ **Existing law provides for** the requirements, **fees** and procedures to obtain such a ~~permit~~ **certificate**. (NRS 706.011-706.791)

Sections 4.7 and 10.1 of this bill require the suspension of the driver's license of a person who fails to pay certain administrative fines and related costs to the Authority. Section 10.1 requires a person whose driver's license is suspended for the nonpayment of administrative fines to the Authority to pay that administrative fine and to pay a fee for the reinstatement of his or her driver's license.

Existing law provides that a short-term lessor is not liable for a fine or penalty related to the impoundment of certain vehicles if the vehicle was not in the control of the shorter-term lessor at the time that it was

impounded. (NRS 706.478) Section 8.7 of this bill deletes the requirement that a true copy of the lease or rental agreement pursuant to which a vehicle was leased or rented to a lessee by the short-term lessor is prima facie evidence that the short-term lessor was not in control of the impounded vehicle.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~1, 3 and 4~~ **to 4.7, inclusive**, of this act.

~~Sec. 2. 1. A person shall not drive a motor vehicle for a fully regulated carrier of passengers or a taxicab motor carrier as an employee, independent contractor or lessee unless the person has a driver's permit issued by the Authority pursuant to this section.~~

~~2. The Authority shall issue a driver's permit to each applicant who satisfies the requirements of this section. Before issuing a driver's permit, the Authority shall:~~

~~—(a) Require the applicant to submit a complete set of his or her fingerprints, which the Authority may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to ascertain whether the applicant has a criminal record and the nature of any such record, and shall further investigate the applicant's background; and~~

~~—(b) Require proof that the applicant is employed or under a contract or lease agreement or has an offer of employment, a contract or a lease agreement that is contingent on the applicant's obtaining a driver's permit pursuant to this section and:~~

~~—(1) Has a valid license issued pursuant to NRS 483.340 which authorizes the applicant to drive in this State any motor vehicle that is within the scope of the employment, contract or lease; or~~

~~—(2) If the driver is a resident of a state other than Nevada, has a valid license issued by the state in which he or she resides which authorizes the applicant to drive any motor vehicle that is within the scope of the employment, contract or lease.~~

~~3. The Authority may refuse to issue a driver's permit if the applicant has been convicted of:~~

~~—(a) A felony, other than a sexual offense, in this State or any other jurisdiction within the 5 years immediately preceding the date of the application;~~

~~—(b) A felony involving any sexual offense in this State or any other jurisdiction at any time before the date of the application; or~~

~~—(c) A violation of NRS 484C.110 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct within the 3 years immediately preceding the date of the application.~~

~~4. A driver's permit issued pursuant to this section is valid:~~

~~—(a) If it is an original permit, for not longer than 1 year; or~~

~~—(b) If it is a renewal permit, for not longer than 3 years;
 ➔ but lapses if the driver ceases to be employed by the carrier identified in the application for the original or renewal permit or if the contract or lease expires and the driver enters into a contract or lease with a different carrier. A driver must notify the Authority within 10 days after the lapse of a permit and obtain a new permit pursuant to this section before driving for a different carrier.~~

~~—5. An applicant shall pay to the Authority:~~

~~—(a) For an original driver's permit, a fee not to exceed \$50; and~~

~~—(b) For the renewal of a driver's permit, a fee not to exceed \$50.~~

~~—6. The provisions of this section:~~

~~—(a) Apply to a person who is the lessee of a taxicab pursuant to a lease agreement as set forth in NRS 706.473.~~

~~—(b) Do not apply to a driver who is employed by or under contract with:~~

~~—(1) The owner or operator of a charter bus which is not a fully regulated carrier;~~

~~—(2) A person or organization that provides a transportation service for persons with disabilities if the driver is certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS; or~~

~~—(3) The owner or operator of any motor vehicle that is not subject to regulation by the Authority pursuant to NRS 706.011 to 706.791, inclusive; and sections 2, 3 and 4 of this act. } (Deleted by amendment.)~~

~~Sec. 3. {1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a driver's permit pursuant to section 2 of this act shall:~~

~~—(a) Include the social security number of the applicant in the application submitted to the Authority;~~

~~—(b) Submit to the Authority 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 Authority 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 driver's permit; or~~

~~—(b) A separate form prescribed by the Authority.~~

~~—3. A driver's permit may not be issued or renewed by the Authority 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 Authority 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.] (Deleted by amendment.)~~

~~Sec. 4. [1. If the Authority 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 driver's permit, the Authority shall deem the permit 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 Authority receives a letter issued to the holder of the driver's permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the driver's permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~2. The Authority shall reinstate a driver's permit that has been suspended by a district court pursuant to NRS 425.540 if the Authority receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose driver's permit was suspended stating that the person whose driver's permit was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.] (Deleted by amendment.)~~

Sec. 4.3. "Short-term lessor" means a person who has leased a vehicle to another person for a period of 31 days or less, or by the day, or by the trip.

Sec. 4.7. 1. If the Authority imposes an administrative fine pursuant to NRS 706.476 or 706.771 in an amount greater than \$100, the person who is responsible for payment of the administrative fine shall:

(a) Pay to the Authority the full amount of the administrative fine and any other costs owed by that person related to the administrative fine; or

(b) If the person is unable to pay the full amount owed, enter into a plan of repayment with the Authority for the payment over time of the administrative fine.

2. The Authority shall, within 20 days after imposing an administrative fine pursuant to NRS 706.476 or 706.771, provide notice by first-class mail to the person against whom the administrative fine is imposed. The notice must include a statement:

(a) Of the amount of the administrative fine and any other costs which must be paid to the Authority;

(b) That the person must, within 14 days after receiving the notice:

(1) Pay to the Authority the full amount of the administrative fine and any other costs; or

(2) If a plan of repayment has been approved by the Authority, comply with the terms of the plan of repayment; and

(c) That the Authority is required to notify the Department of Motor Vehicles of the failure to pay the amount owed and that the Department may suspend the driver's license of the person for failure to pay the administrative fine and any other costs.

3. The Authority shall provide to the Department of Motor Vehicles the name of a person to whom a notice is sent pursuant to paragraph (b) of subsection 2, including, without limitation, the date on which the notice was sent.

4. The Authority shall, within 5 days after receiving payment from a person or approving a plan of repayment, notify the Department of Motor Vehicles that the person has satisfied the requirements of payment of the administrative fine and any other costs owed by the person.

5. The provisions of this section do not relieve the Authority of any obligation to notify the State Controller of any debt that is past due pursuant to chapter 353C of NRS.

Sec. 5. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ~~and sections 2 ~~f~~, 3 and 4~~ to 4.7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, ~~and section 4.3 of this act~~ have the meanings ascribed to them in those sections.

Sec. 5.5. NRS 706.041 is hereby amended to read as follows:

706.041 "Common motor carrier of passengers" means any person or operator ~~including a taxicab motor carrier,~~ who is held out to the public as willing to transport by vehicle from place to place, either upon fixed route or on-call operations, passengers or passengers and light express for all who may choose to employ the person or operator. The term includes, without limitation, a taxicab motor carrier and a short-term lessor who offers, arranges for or allows the use of a paid driver, whether directly or through an affiliated person.

Sec. 6. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, ~~and sections 2 ~~f~~, 3 and 4~~ to 4.7, inclusive, of this act relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or

3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 7. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.
2. Any state or a political subdivision thereof.

Sec. 8. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. The Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 8.3. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as otherwise provided in NRS 277A.280, 706.446, 706.453 and 706.745, for any:

1. Fully regulated common motor carrier to operate as a carrier of intrastate commerce;

2. ***Short-term lessor licensed pursuant to NRS 482.363 to offer, arrange for or allow the use of a paid driver, whether directly or through an affiliated person;***

3. Owner or operator of a charter bus which is not a fully regulated carrier to operate as a carrier of intrastate commerce; or

~~3-4~~ 4. Operator of a tow car to perform towing services within this State,

↳ without first obtaining a certificate of public convenience and necessity from the Authority.

Sec. 8.7. NRS 706.478 is hereby amended to read as follows:

706.478 1. Notwithstanding any provision of NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act***, to the contrary, if the registered owner of a vehicle which is impounded pursuant to NRS 706.476 is a short-term lessor licensed pursuant to NRS 482.363 who is engaged ***solely*** in the business of renting or leasing vehicles in accordance with NRS 482.295 to 482.3159, inclusive, the registered owner is not liable for any administrative fine or other penalty that may be imposed by the Authority for the operation of a passenger vehicle in violation of

NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** if at the time that the vehicle was impounded, the vehicle was in the care, custody or control of a lessee.

2. A short-term lessor may establish that a vehicle was subject to the care, custody or control of a lessee at the time that the vehicle was impounded pursuant to NRS 706.476 by submitting to the Authority a true copy of the lease or rental agreement pursuant to which the vehicle was leased or rented to the lessee by the short-term lessor. ~~{The submission of a true copy of a lease or rental agreement is prima facie evidence that the vehicle was in the care, custody or control of the lessee.}~~

3. Upon the receipt of a true copy of a written lease or rental agreement pursuant to subsection 2 which evidences that the vehicle impounded by the Authority pursuant to NRS 706.476 was under the care, custody or control of a lessee and not the registered owner of the vehicle, the Authority shall release the vehicle to the short-term lessor.

~~{4. As used in this section, "short-term lessor" has the meaning ascribed to it in NRS 482.053.}~~

Sec. 9. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2, 3 and 4.7, inclusive, of this act*** do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 10. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive [;], ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act***;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive [;], ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act***;

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~to~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act;**

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

↳ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

↳ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without

first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 10.1. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Upon receipt of notice from the Nevada Transportation Authority pursuant to section 4.7 of this act regarding a driver's delinquency with respect to the payment of an administrative fine and any other costs owed to the Authority pursuant to NRS 706.476 or 706.771, the Department shall notify the driver by mail that his or her driver's license is subject to suspension and allow 30 days after the date of mailing the notice to:

(a) Pay to the Authority the delinquent administrative fine and other costs or comply with a plan of repayment approved pursuant to section 4.7 of this act; or

(b) Make a written request to the Department for a hearing.

2. If notified by the Nevada Transportation Authority, within 30 days after the notice of a delinquency in the payment of an administrative fine, that a driver has entered into a plan for repayment approved pursuant to section 4.7 of this act, the Department shall stop the suspension of the driver's license from going into effect. If the driver subsequently defaults on the plan of repayment with the Authority, the Authority shall notify the Department which shall immediately suspend the driver's license until the Authority notifies the Department that the license is eligible for reinstatement.

3. The Department shall suspend the driver's license of a driver 31 days after it mails the notice provided for in subsection 1 to the driver, unless within that time it has received a written request for a hearing from the driver or notice from the Nevada Transportation Authority that the driver has paid the administrative fine and any other costs or complied with a plan of repayment approved pursuant to section 4.7 of this act. A license so suspended remains suspended until:

(a) The Authority notifies the Department that the license is eligible for reinstatement; and

(b) The Department receives payment of the fee for reinstatement required by NRS 483.410.

Sec. 10.3. NRS 483.010 is hereby amended to read as follows:

483.010 The provisions of NRS 483.010 to 483.630, inclusive, and section 10.1 of this act may be cited as the Uniform Motor Vehicle Drivers' License Act.

Sec. 10.5. NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, and section 10.1 of this act apply only with respect to noncommercial drivers' licenses.

Sec. 10.7. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, and section 10.1 of this act, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 10.9. NRS 483.420 is hereby amended to read as follows:

483.420 1. The Department is hereby authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof pursuant to NRS 483.010 to 483.630, inclusive, and section 10.1 of this act or that the licensee failed to give the required or correct information in his or her application or committed any fraud in making an application.

2. Upon cancellation of a driver's license pursuant to subsection 1, the licensee shall surrender the license cancelled to the Department.

3. The Department is authorized to cancel any license that is voluntarily surrendered to the Department.

Sec. 11. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations or performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

2. Sections 3 and 4 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 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. 320, as amended, revises Chapter 706 of *Nevada Revised Statutes* to add the definition of a "short term lessor," to mean a person who has leased a vehicle to another person for a period of 31 days or fewer, or by the day, or by the trip. Short term lessors are designated as "common motor carriers of passengers." The bill also modifies Chapter 706 to require a short term lessor that offers, arranges for, or allows the use of a paid driver, whether directly or

through an affiliated person, to obtain a certificate of public convenience and necessity from the Nevada Transportation Authority.

The bill also adds new sections to the statute which require the Nevada Transportation Authority to report to the Department of Motor Vehicles the names of persons who fail to pay administrative fines imposed by the Nevada Transportation Authority.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that the action whereby Senate Amendment No. 850 to Senate Bill No. 320 was adopted be rescinded and placed on bottom of Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 374.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 853.

"SUMMARY—~~[Temporarily redirects a portion of the taxes ad valorem levied in Clark County to support the College of Southern Nevada.]~~ **Creates the Committee to Study the Funding of Higher Education.** (BDR S-992)"

"AN ACT relating to ~~local government; temporarily redirecting a portion of the taxes ad valorem levied in Clark County to support the College of Southern Nevada;~~ **higher education; creating the Committee to Study the Funding of Higher Education; prescribing the powers and duties of the Committee; making appropriations;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill ~~requires the deposit into the State General Fund of the portion of the property taxes levied for the next 4 fiscal years for operating purposes by Clark County at the rate of 2 cents per \$100 of assessed valuation. This bill requires the use of those tax proceeds for the support of the College of Southern Nevada.]~~ **creates the Committee to Study the Funding of Higher Education, establishes the composition of the Committee and prescribes the powers and duties of the Committee. This bill further makes appropriations for the purposes of: (1) conducting a study of the funding of higher education; and (2) paying for the cost of the participation of the members of the Committee who are Legislators.**

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

Delete existing sections 1 through 2 of this bill and replace with the following new sections 1 through 10:

Section 1. 1. The Committee to Study the Funding of Higher Education, consisting of 12 voting members and 4 nonvoting members, is hereby created.

2. The following persons shall serve as voting members of the Committee:

(a) Three members of the Senate, two of whom are appointed by the Majority Leader of the Senate and one of whom is appointed by the Minority Leader of the Senate;

(b) Three members of the Assembly, two of whom are appointed by the Speaker of the Assembly and one of whom is appointed by the Minority Leader of the Assembly;

(c) Three members of the Board of Regents of the University of Nevada, appointed by the Chair of that Board; and

(d) Three members appointed by the Governor.

3. The Governor shall appoint the following persons to serve as the nonvoting members of the Committee:

(a) One person who is employed in the Budget Division of the Department of Administration; and

(b) Three persons who are employed by the Nevada System of Higher Education.

4. The Chair of the Legislative Commission shall designate one of the members of the Committee as Chair of the Committee.

5. The Director of the Legislative Counsel Bureau shall provide the necessary professional staff and a secretary for the Committee.

6. For each day or portion of a day during which they attend a meeting of the Committee or are otherwise engaged in the business of the Committee:

(a) The voting members of the Committee who are Legislators are entitled to receive the compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session, plus the per diem allowance provided for state officers and employees generally and the travel expenses provided pursuant to NRS 218A.655.

(b) The voting members of the Committee who are members of the Board of Regents of the University of Nevada are entitled to receive travel expenses and a per diem allowance at the rates established in NRS 396.070.

(c) The voting members of the Committee appointed by the Governor are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 2. The Committee shall:

1. Compare the existing method of funding higher education in Nevada with the methods used in other states;

2. Determine whether the other methods would be appropriate and useful in Nevada, whereby different missions of universities, state college, colleges and research institutes are appropriately considered in the funding of public higher education in Nevada;

3. Review the funding of remediation in the context of instructional delivery methods;

4. Consider the retention of resident registration fees and nonresident tuition outside of the state supported operating budget;

5. Consider funding in the context of completed courses in contrast to the current method of funding enrollments; and

6. Consider rewarding institutions within higher education for achieving defined goals for graduating students.

Sec. 3. The Committee may hold public hearings at such times and places as it deems necessary to afford the general public and representatives of governmental agencies and of organizations interested in higher education an opportunity to present relevant information and recommendations.

Sec. 4. The Committee may employ such educational and financial consultants as it deems necessary for this study.

Sec. 5. The Committee may accept and use all gifts and grants which it receives to further its work.

Sec. 6. There is hereby appropriated from the State General Fund to the Legislative Fund the sum of \$150,000 for the purpose of conducting a study of the funding of higher education as provided in sections 1 to 5, inclusive, of this act.

Sec. 7. There is hereby appropriated from the State General Fund to the Legislative Fund the sum of \$18,064 for the purpose of the paying for the cost of the participation of the members of the Committee who are Legislators as provided in sections 1 to 5, inclusive, of this act.

Sec. 8. Any remaining balance of the appropriation made by section 6 or 7 of this act must not be committed for expenditure after June 30, 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 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 20, 2013.

Sec. 9. The Committee shall submit to the Legislative Commission a report of its findings and recommendations for legislation before the commencement of the 77th Session of the Nevada Legislature.

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

Senator Lee moved the adoption of the amendment.

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

Amendment No. 853 to Senate Bill No. 374 creates the Committee to Study the Funding of Higher Education, and directs the committee to conduct a study of the funding of the Nevada System of Higher Education. The Committee's findings and recommendations are to be submitted in a report to the Legislative Commission before the commencement of the 77th Session of the Nevada Legislature.

Section 1 of Senate Bill No. 374 establishes the Committee's membership, consisting of 12 voting members and 4 non-voting members.

Additionally, Senate Bill No. 374 requires that the Governor appoint non-voting members of the Committee.

Section 2 of Senate Bill No. 374 establishes six areas to be studied and directs the Committee to: compare the existing method of funding higher education in Nevada with the methods used in other states; determine whether the other methods would be appropriate and useful in Nevada whereby different missions of universities, state colleges, colleges and research institutions are appropriately considered in the funding of public higher education in Nevada; review the funding recommendation in the context of instructional delivery methods; consider the retention of resident registration fees and non-resident tuition outside of the State-supported operating budget; consider funding in the context of completed courses in contrast to the current method of funding enrollments; and consider rewarding institutions within higher education for achieving defined goals for graduating students.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 224.

Bill read second time and ordered to third reading.

Assembly Bill No. 255.

Bill read second time and ordered to third reading.

Assembly Bill No. 474.

Bill read second time.

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

Amendment No. 874.

"SUMMARY—Creates the Sunset Subcommittee of the Legislative Commission to review certain boards and commissions. (BDR 18-889)"

"AN ACT relating to governmental administration; creating the Sunset Subcommittee of the Legislative Commission; providing for its membership; requiring the Sunset Subcommittee to review certain boards and commissions in this State to determine the need for the termination, consolidation, modification or continuation of those boards and commissions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes the Legislative Commission and provides for its powers and duties, which consist of, in part, investigating and inquiring into subjects upon which the Legislature may act by the enactment or amendment of statutes, governmental problems, important issues of public policy or questions of statewide interest. (NRS 218E.150, 218E.175) Existing law also provides for certain standing subcommittees of the Legislative Commission to carry out ongoing duties, such as the Audit Subcommittee and the Budget Subcommittee. (NRS 218E.240, 218E.255) Finally, existing law requires the Legislative Commission to conduct reviews of existing agencies to determine whether each agency should be terminated, consolidated with another agency or continued. (NRS 232B.010-232B.100)

Section 2 of this bill creates the Sunset Subcommittee of the Legislative Commission and sets forth its membership. **Section 3** of this bill specifies the Sunset Subcommittee's primary duties, which are: (1) to conduct reviews of all boards and commissions in this State which are not provided for in the Constitution of this State or established by an executive order of the Governor and determine whether each board or commission should be terminated, modified, consolidated with another agency or continued; (2) to make recommendations for improving the boards or commissions which are to be modified, consolidated or continued; and (3) to determine whether any tax exemptions, abatements or money set aside for a board or commission should be terminated, modified or continued. **Section 3** also requires the Sunset Subcommittee to assess each board or commission reviewed for the cost of conducting the review.

Section 4 of this bill requires each board and commission to submit certain information about itself and how it operates to the Sunset Subcommittee and authorizes the Sunset Subcommittee to direct the Legislative Counsel Bureau to assist the Sunset Subcommittee in investigating, reviewing and analyzing the information submitted. **Section 5** of this bill requires the Sunset Subcommittee to hold public hearings to receive commentary on whether a board or commission should be terminated, modified, consolidated or continued. **Section 6** of this bill requires the Sunset Subcommittee to make recommendations for direct legislative action to carry out its recommendations regarding the termination, modification, consolidation or continuation of a board or commission.

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

Section 1. Chapter 232B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *The Sunset Subcommittee of the Legislative Commission, consisting of nine members, is hereby created. The membership of the Sunset Subcommittee consists of:*

(a) ~~Three~~ Two members of the Legislature appointed by the Majority Leader of the Senate ; ~~f, at least one of whom must be a member of the minority political party;~~

(b) ~~Three~~ Two members of the Legislature appointed by the Speaker of the Assembly ; ~~f, at least one of whom must be a member of the minority political party; and~~

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

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

(e) Three members of the general public appointed by the Chair of the Legislative Commission from among the names of nominees submitted by the Governor pursuant to subsection 2.

2. *The Governor shall, at least 30 days before the beginning of the term of any member appointed pursuant to paragraph ~~##~~ (e) of subsection 1, or within 30 days after such a position on the Sunset Subcommittee becomes vacant, submit to the Legislative Commission the names of at least three persons qualified for membership on the Sunset Subcommittee. The Chair of the Legislative Commission shall appoint a new member or fill the vacancy from the list, or request a new list. The Chair of the Legislative Commission may appoint any qualified person who is a resident of this State to the position described in paragraph ~~##~~ (e) of subsection 1.*

3. *Each member of the Sunset Subcommittee serves at the pleasure of the appointing authority.*

4. *The members of the Sunset Subcommittee 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. If a vacancy occurs in the Office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.*

5. *The membership of any member of the Sunset Subcommittee who is a Legislator and who is not a candidate for reelection or who is defeated for reelection terminates on the day next after the general election.*

6. *A vacancy on the Sunset Subcommittee must be filled in the same manner as the original appointment.*

7. *The Sunset Subcommittee shall meet at the times and places specified by a call of the Chair. Five members of the Sunset Subcommittee constitute a quorum, and a quorum may exercise any power or authority conferred on the Sunset Subcommittee.*

8. *For each day or portion of a day during which a member of the Sunset Subcommittee who is a Legislator attends a meeting of the Sunset Subcommittee or is otherwise engaged in the business of the Sunset Subcommittee, except during a regular or special session of the Legislature, the Legislator is entitled to receive the:*

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

➤ *The compensation, per diem allowances and travel expenses of the members of the Sunset Subcommittee who are Legislators must be paid from the Legislative Fund.*

9. *While engaged in the business of the Sunset Subcommittee the members of the Subcommittee who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

Sec. 3. 1. *The Sunset Subcommittee of the Legislative Commission shall conduct a review of each board and commission in this State which is not provided for in the Constitution of this State or established by an*

executive order of the Governor to determine whether the board or commission should be terminated, modified, consolidated with another board or commission or continued. Such a review must include, without limitation:

(a) An evaluation of the major policies and programs of the board or commission, including, without limitation, an examination of other programs or services offered in this State to determine if any other provided programs or services duplicate those offered by the board or commission;

(b) Any recommendation for improvements in the policies and programs offered by the board or commission; and

(c) A determination of whether any statutory tax exemptions, abatements or money set aside to be provided to the board or commission should be terminated, modified or continued.

2. The Sunset Subcommittee shall review:

(a) Not less than 20 boards and commissions specified in subsection 1 each year; and

(b) Each of those boards and commissions not less than once every 10 years.

3. For each review of a board or commission that the Sunset Subcommittee conducts, the Sunset Subcommittee shall submit a written assessment to the board or commission setting forth the costs of the review. In determining the amount of an assessment pursuant to this subsection, the Sunset Subcommittee shall consider, based upon the information provided by the board or commission pursuant to section 4 of this act, whether any additional analysis or evaluation is required to review the board or commission because of the specialized nature of the board or commission. As soon as practicable after a board or commission receives a written assessment pursuant to this subsection, the board or commission shall pay the amount set forth in the written assessment to the Sunset Subcommittee.

4. Any action taken by the Sunset Subcommittee concerning a board or commission pursuant to sections 2 to 7, inclusive, of this act is in addition or supplemental to any action taken by the Legislative Commission pursuant to NRS 232B.010 to 232B.100, inclusive.

Sec. 4. 1. Each board and commission subject to review by the Sunset Subcommittee of the Legislative Commission shall submit information to the Sunset Subcommittee on a form prescribed by the Sunset Subcommittee. The information must include, without limitation:

(a) The name of the board or commission;

(b) The name of each member of the board or commission;

(c) The address of the Internet website established and maintained by the board or commission, if any;

(d) The name and contact information of the executive director of the board or commission, if any;

- (e) A list of the members of the staff of the board or commission;*
- (f) The authority by which the board or commission was created;*
- (g) The governing structure of the board or commission, including, without limitation, information concerning the method, terms, qualifications and conditions of appointment and removal of the members of the board or commission;*
- (h) The duties of the board or commission;*
- (i) The operating budget of the board or commission;*
- (j) A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits the form required by this subsection, including the balances of any fund or account maintained by or on behalf of the board or commission;*
- (k) The most recent audit conducted of the board or commission, if any;*
- (l) The dates of the immediately preceding six meetings held by the board or commission;*
- (m) A statement of the objectives and programs of the board or commission;*
- (n) A conclusion concerning the effectiveness of the objectives and programs of the board or commission;*
- (o) Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs; and*
- (p) Such other information as the Sunset Subcommittee may require.*

2. The Sunset Subcommittee may direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis of the information submitted by each board and commission pursuant to subsection 1.

Sec. 5. 1. The Sunset Subcommittee of the Legislative Commission shall conduct public hearings for the purpose of obtaining comments on, and may require the Legislative Counsel Bureau to submit reports on, the need for the termination, modification, consolidation or continued operation of a board or commission.

2. The Sunset Subcommittee shall consider any report submitted to it by the Legislative Counsel Bureau.

3. A board or commission has the burden of proving that there is a public need for its continued existence.

Sec. 6. 1. If the Sunset Subcommittee of the Legislative Commission determines to recommend the termination of a board or commission, its recommendation must include suggestions for appropriate direct legislative action, if any, which is made necessary or desirable by the termination of the board or commission.

2. If the Sunset Subcommittee determines to recommend the consolidation, modification or continuation of a board or commission, its recommendation must include suggestions for appropriate direct legislative

action, if any, which would make the operation of the board or commission or its successor more efficient or effective.

3. *On or before June 30, 2012, the Sunset Subcommittee shall make all its initial recommendations pursuant to this section, if any. The Sunset Subcommittee shall make all subsequent recommendations pursuant to this section, if any, on or before June 30 of each even-numbered year occurring thereafter.*

Sec. 7. (Deleted by amendment.)

Sec. 8. NRS 232B.010 is hereby amended to read as follows:

232B.010 As used in ~~{this chapter,}~~ **NRS 232B.010 to 232B.100, inclusive**, unless the context otherwise requires, "agency" means any public agency which the Legislature has designated to be the subject of a review by the Legislative Commission.

Sec. 9. NRS 232B.080 is hereby amended to read as follows:

232B.080 1. The Legislative Commission shall conduct public hearings for the purpose of obtaining comments on, and may require the Legislative Counsel Bureau to submit reports on, the need for the continued operation of an agency, and its efficiency and effectiveness.

2. At any hearing held ~~{under this chapter,}~~ **pursuant to NRS 232B.010 to 232B.100, inclusive**, information may be presented by:

- (a) Members of the general public;
- (b) Any person who is regulated by the agency; and
- (c) Representatives of the agency.

3. The Legislative Commission shall consider any report submitted to it by the Legislative Counsel Bureau.

4. An agency has the burden of proving that there is a public need for its continued existence or regulatory function.

Sec. 10. 1. On or before August 1, 2011, the Governor shall submit to the Legislative Commission the names of at least three nominees who are qualified for membership on the Sunset Subcommittee of the Legislative Commission pursuant to subsection 2 of section 2 of this act.

2. On or before September 1, 2011:

(a) The Majority Leader of the Senate shall appoint ~~{three}~~ **two** members of the Sunset Subcommittee pursuant to paragraph (a) of subsection 1 of section 2 of this act.

(b) The Speaker of the Assembly shall appoint ~~{three}~~ **two** members of the Sunset Subcommittee pursuant to paragraph (b) of subsection 1 of section 2 of this act.

(c) **The Minority Leader of the Senate shall appoint one member of the Sunset Subcommittee pursuant to paragraph (c) of subsection 1 of section 2 of this act.**

(d) **The Minority Leader of the Assembly shall appoint one member of the Sunset Subcommittee pursuant to paragraph (d) of subsection 1 of section 2 of this act.**

(e) The Chair of the Legislative Commission shall appoint three members of the general public from among the names of the nominees submitted by the Governor pursuant to subsection 1.

Sec. 11. 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. 474 proposes to create the Sunset Subcommittee of the Legislative Commission.

Amendment No. 874 provides that the Senate Minority Leader and the Assembly Minority Leader shall each appoint one member of their respective houses to the Subcommittee.

Amendment adopted.

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

Assembly Bill No. 529.

Bill read second time and ordered to third reading.

Senate Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 884.

"SUMMARY—Revises provisions governing certain motor carriers. (BDR 58-1051)"

"AN ACT relating to motor carriers; ~~requiring persons who wish to be employed as drivers for certain motor carriers subject to the jurisdiction of the Nevada Transportation Authority to obtain a driver's permit issued by the Authority; providing a fee;~~ **revising provisions relating to the period of operation of certain taxicabs; prohibiting a short-term lessor from offering, arranging for or allowing the use of a paid driver; requiring the suspension of the drivers' licenses of certain persons who fail to pay administrative fines to the Nevada Transportation Authority;** providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the regulation of certain motor carriers in this State by the Nevada Transportation Authority. (NRS 706.011-706.791) ~~[This bill requires a person who wishes to be employed or enter into a contract or lease as a driver for certain motor carriers subject to the jurisdiction of the Authority to obtain a driver's permit issued by the Authority. This bill also establishes the requirements and procedures to obtain such a permit.]~~

Sections 4.7 and 10.3 of this bill require the suspension of the driver's license of a person who fails to pay certain administrative fines and related costs to the Authority. Section 10.3 requires a person whose driver's license is suspended for the nonpayment of an administrative fine to the Authority to pay that administrative fine and to pay the fee

for reinstatement of his or her driver's license before the driver's license may be reinstated by the Department of Motor Vehicles.

Existing law provides that a short-term lessor is not liable for a fine or penalty related to the impoundment of certain vehicles if the vehicle was not in the control of the short-term lessor at the time that it was impounded. (NRS 706.478) Section 8.7 of this bill deletes the requirement that a true copy of the lease or rental agreement pursuant to which a vehicle was leased or rented to a lessee by the short-term lessor is prima facie evidence that the short-term lessor was not in control of the impounded vehicle.

Section 10.1 of this bill prohibits a short-term lessor from offering, arranging for or allowing the use of a paid driver whether directly or through an affiliated person.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~2, 3 and 4~~ **to 4.7, inclusive**, of this act.

Sec. 2. ~~1. A person shall not drive a motor vehicle for a fully regulated carrier of passengers or a taxicab motor carrier as an employee, independent contractor or lessee unless the person has a driver's permit issued by the Authority pursuant to this section.~~

~~2. The Authority shall issue a driver's permit to each applicant who satisfies the requirements of this section. Before issuing a driver's permit, the Authority shall:~~

~~— (a) Require the applicant to submit a complete set of his or her fingerprints, which the Authority may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to ascertain whether the applicant has a criminal record and the nature of any such record, and shall further investigate the applicant's background; and~~

~~— (b) Require proof that the applicant is employed or under a contract or lease agreement or has an offer of employment, a contract or a lease agreement that is contingent on the applicant's obtaining a driver's permit pursuant to this section and:~~

~~— (1) Has a valid license issued pursuant to NRS 483.340 which authorizes the applicant to drive in this State any motor vehicle that is within the scope of the employment, contract or lease; or~~

~~— (2) If the driver is a resident of a state other than Nevada, has a valid license issued by the state in which he or she resides which authorizes the applicant to drive any motor vehicle that is within the scope of the employment, contract or lease.~~

~~3. The Authority may refuse to issue a driver's permit if the applicant has been convicted of:~~

~~—(a) A felony, other than a sexual offense, in this State or any other jurisdiction within the 5 years immediately preceding the date of the application;~~

~~—(b) A felony involving any sexual offense in this State or any other jurisdiction at any time before the date of the application; or~~

~~—(c) A violation of NRS 484C.110 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct within the 3 years immediately preceding the date of the application;~~

~~—4. A driver's permit issued pursuant to this section is valid:~~

~~—(a) If it is an original permit, for not longer than 1 year; or~~

~~—(b) If it is a renewal permit, for not longer than 3 years;~~

~~—but lapses if the driver ceases to be employed by the carrier identified in the application for the original or renewal permit or if the contract or lease expires and the driver enters into a contract or lease with a different carrier. A driver must notify the Authority within 10 days after the lapse of a permit and obtain a new permit pursuant to this section before driving for a different carrier;~~

~~—5. An applicant shall pay to the Authority:~~

~~—(a) For an original driver's permit, a fee not to exceed \$50; and~~

~~—(b) For the renewal of a driver's permit, a fee not to exceed \$50.~~

~~—6. The provisions of this section:~~

~~—(a) Apply to a person who is the lessee of a taxicab pursuant to a lease agreement as set forth in NRS 706.473;~~

~~—(b) Do not apply to a driver who is employed by or under contract with:~~

~~—(1) The owner or operator of a charter bus which is not a fully regulated carrier;~~

~~—(2) A person or organization that provides a transportation service for persons with disabilities if the driver is certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS; or~~

~~—(3) The owner or operator of any motor vehicle that is not subject to regulation by the Authority pursuant to NRS 706.011 to 706.791, inclusive; and sections 2, 3 and 4 of this act.} (Deleted by amendment.)~~

~~Sec. 3. [1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a driver's permit pursuant to section 2 of this act shall:~~

~~—(a) Include the social security number of the applicant in the application submitted to the Authority;~~

~~—(b) Submit to the Authority 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 Authority 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 driver's permit; or~~

~~—(b) A separate form prescribed by the Authority.~~

~~—3. A driver's permit may not be issued or renewed by the Authority 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 Authority 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.] (Deleted by amendment.)~~

~~Sec. 4. [1. If the Authority 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 driver's permit, the Authority shall deem the permit 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 Authority receives a letter issued to the holder of the driver's permit by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the driver's permit has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.~~

~~—2. The Authority shall reinstate a driver's permit that has been suspended by a district court pursuant to NRS 425.540 if the Authority receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose driver's permit was suspended stating that the person whose driver's permit was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.] (Deleted by amendment.)~~

Sec. 4.3. In any county for which regulation by the Taxicab Authority is not required pursuant to NRS 706.881:

1. Except as otherwise provided in subsection 4, if a vehicle acquired for use as a taxicab by a certificate holder pursuant to paragraph (a) of subsection 3 has been in operation as a taxicab for 72 months based on the date on which it was originally placed into operation as a taxicab, the certificate holder shall remove the vehicle from operation as a taxicab.

2. Except as otherwise provided in subsection 4, if a vehicle acquired for use as a taxicab by a certificate holder pursuant to paragraph (b) of

subsection 3 has been in operation as a taxicab for 55 months based on the date on which it was originally placed into operation as a taxicab, the certificate holder shall remove the vehicle from operation as a taxicab.

3. Any vehicle which a certificate holder acquires for use as a taxicab must:

(a) Be new; or

(b) Register not more than 30,000 miles on the odometer.

4. If a hybrid electric vehicle, as defined in 40 C.F.R. § 86.1702-99, is acquired for use as a taxicab by a certificate holder, the period of operation as a taxicab specified in subsections 1 and 2 shall be extended for an additional 24 months for that vehicle.

Sec. 4.7. 1. If the Authority imposes an administrative fine pursuant to NRS 706.476 or 706.771 in an amount greater than \$100, the person who is responsible for payment of the administrative fine shall:

(a) Pay to the Authority the full amount of the administrative fine and any other costs related to the administrative fine owed by that person; or

(b) If the person is unable to pay the full amount owed, enter into a plan of repayment with the Authority for the payment over time of the administrative fine.

2. The Authority shall, within 20 days after imposing an administrative fine pursuant to NRS 706.476 or 706.771, provide notice by first-class mail to the person against whom the administrative fine is imposed. The notice must include a statement:

(a) Of the amount of the administrative fine and any other costs which must be paid to the Authority;

(b) That the person must, within 14 days after receiving the notice:

(1) Pay to the Authority the full amount of the administrative fine and any other costs; or

(2) If a plan of repayment has been approved by the Authority, comply with the terms of the plan of repayment; and

(c) That the Authority is required to notify the Department of Motor Vehicles of the failure to pay the amount owed and that the Department may suspend the driver's license of the person for failure to pay the administrative fine and any other costs.

3. The Authority shall provide to the Department of Motor Vehicles the name of a person to whom a notice is sent pursuant to subsection 2 and the date on which the notice was sent.

4. The Authority shall, within 5 days after receiving payment from a person or approving a plan of repayment, notify the Department of Motor Vehicles that the person has satisfied the requirements for payment of the administrative fine and any other costs owed by the person.

5. The provisions of this section do not relieve the Authority of any obligation to notify the State Controller of any debt that is past due pursuant to chapter 353C of NRS.

Sec. 5. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act***, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;
2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or
3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 7. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.
2. Any state or a political subdivision thereof.

Sec. 8. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. The Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, ***and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act*** for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 8.7. NRS 706.478 is hereby amended to read as follows:

706.478 1. Notwithstanding any provision of NRS 706.011 to 706.791, inclusive, ***and sections 2 to 4.7, inclusive, of this act*** to the contrary, if the registered owner of a vehicle which is impounded pursuant to NRS 706.476 is a short-term lessor licensed pursuant to NRS 482.363 who is engaged ***solely*** in the business of renting or leasing vehicles in accordance with

NRS 482.295 to 482.3159, inclusive, and section 10.1 of this act, the registered owner is not liable for any administrative fine or other penalty that may be imposed by the Authority for the operation of a passenger vehicle in violation of NRS 706.011 to 706.791, inclusive, and sections 2 to 4.7, inclusive, of this act if at the time that the vehicle was impounded, the vehicle was in the care, custody or control of a lessee.

2. A short-term lessor may establish that a vehicle was subject to the care, custody or control of a lessee at the time that the vehicle was impounded pursuant to NRS 706.476 by submitting to the Authority a true copy of the lease or rental agreement pursuant to which the vehicle was leased or rented to the lessee by the short-term lessor. ~~{The submission of a true copy of a lease or rental agreement is prima facie evidence that the vehicle was in the care, custody or control of the lessee.}~~

3. Upon the receipt of a true copy of a written lease or rental agreement pursuant to subsection 2 which evidences that the vehicle impounded by the Authority pursuant to NRS 706.476 was under the care, custody or control of a lessee and not the registered owner of the vehicle, the Authority shall release the vehicle to the short-term lessor.

~~{4. As used in this section, "short term lessor" has the meaning ascribed to it in NRS 482.053.}~~

Sec. 9. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so

long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 10. NRS 706.756 is hereby amended to read as follows:

706.756 1. Except as otherwise provided in subsection 2, any person who:

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act** apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act** or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~f, 3 and 4~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act;**

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~f, 3 and 4~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act;**

(d) Fails to obey any order, decision or regulation of the Authority or the Department;

(e) Procures, aids or abets any person in the failure to obey such an order, decision or regulation of the Authority or the Department;

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~{;}~~, **and sections 2 ~~f, 3 and 4~~ to 4.7, inclusive, of this act;**

(g) Advertises as providing:

(1) The services of a fully regulated carrier; or

(2) Towing services,

➤ without including the number of the person's certificate of public convenience and necessity or contract carrier's permit in each advertisement;

(h) Knowingly offers, gives, solicits or accepts any rebate, concession or discrimination in violation of the provisions of this chapter;

(i) Knowingly, willfully and fraudulently seeks to evade or defeat the purposes of this chapter;

(j) Operates or causes to be operated a vehicle which does not have the proper identifying device;

(k) Displays or causes or permits to be displayed a certificate, permit, license or identifying device, knowing it to be fictitious or to have been cancelled, revoked, suspended or altered;

(l) Lends or knowingly permits the use of by one not entitled thereto any certificate, permit, license or identifying device issued to the person so lending or permitting the use thereof; or

(m) Refuses or fails to surrender to the Authority or Department any certificate, permit, license or identifying device which has been suspended, cancelled or revoked pursuant to the provisions of this chapter,

➤ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail for not more than 6 months, or by both fine and imprisonment.

2. Any person who, in violation of the provisions of NRS 706.386, operates as a fully regulated common motor carrier without first obtaining a certificate of public convenience and necessity or any person who, in violation of the provisions of NRS 706.421, operates as a contract motor carrier without first obtaining a permit is guilty of a misdemeanor and shall be punished:

(a) For a first offense within a period of 12 consecutive months, by a fine of not less than \$500 nor more than \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

(b) For a second offense within a period of 12 consecutive months and for each subsequent offense that is committed within a period of 12 consecutive months of any prior offense under this subsection, by a fine of \$1,000. In addition to the fine, the person may be punished by imprisonment in the county jail for not more than 6 months.

3. Any person who, in violation of the provisions of NRS 706.386, operates or permits the operation of a vehicle in passenger service without first obtaining a certificate of public convenience and necessity is guilty of a gross misdemeanor.

4. If a law enforcement officer witnesses a violation of any provision of subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed immediately from the scene and impounded in accordance with NRS 706.476.

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 10.1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for a short-term lessor to offer, arrange for or allow the use of a paid driver whether directly or through an affiliated person.

Sec. 10.3. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Upon receipt of notice from the Nevada Transportation Authority pursuant to section 4.7 of this act regarding a driver's delinquency with respect to the payment of an administrative fine and any other costs owed to the Authority pursuant to NRS 706.476 or 706.771, the Department shall notify the driver by mail that his or her driver's license is subject to suspension and allow the driver 30 days after the date of mailing the notice to:

(a) Pay to the Authority the delinquent administrative fine and any other costs or comply with a plan of repayment approved pursuant to section 4.7 of this act; or

(b) Make a written request to the Department for a hearing.

2. If notified by the Nevada Transportation Authority, within 30 days after the notice of a delinquency in the payment of an administrative fine, that a driver has entered into a plan for repayment approved pursuant to section 4.7 of this act, the Department shall stop the suspension of the driver's license from going into effect. If the driver subsequently defaults on the plan of repayment with the Authority, the Authority shall notify the Department, which shall immediately suspend the driver's license until the Authority notifies the Department that the license is eligible for reinstatement.

3. The Department shall suspend the driver's license of a driver 31 days after it mails the notice provided for in subsection 1 to the driver, unless within that time it has received a written request for a hearing from the driver or notice from the Nevada Transportation Authority that the driver has paid the administrative fine and any other costs or complied with a plan of repayment approved pursuant to section 4.7 of this act. A license so suspended remains suspended until:

(a) The Authority notifies the Department that the license is eligible for reinstatement; and

(b) The Department receives payment of the fee for reinstatement required by NRS 483.410.

Sec. 10.5. NRS 483.010 is hereby amended to read as follows:

483.010 The provisions of NRS 483.010 to 483.630, inclusive, and section 10.3 of this act may be cited as the Uniform Motor Vehicle Drivers' License Act.

Sec. 10.6. NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, and section 10.3 of this act apply only with respect to noncommercial drivers' licenses.

Sec. 10.7. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, and section 10.3 of this act, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 10.9. NRS 483.420 is hereby amended to read as follows:

483.420 1. The Department is hereby authorized to cancel any driver's license upon determining that the licensee was not entitled to the issuance thereof pursuant to NRS 483.010 to 483.630, inclusive, and section 10.3 of this act or that the licensee failed to give the required or correct information in his or her application or committed any fraud in making an application.

2. Upon cancellation of a driver's license pursuant to subsection 1, the licensee shall surrender the license cancelled to the Department.

3. The Department is authorized to cancel any license that is voluntarily surrendered to the Department.

Sec. 11. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations or performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

2. Sections 3 and 4 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 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. 320 requires the suspension of a driver's license for a person who fails to pay certain administrative fines and related costs to the Nevada Transportation Authority. It requires a person whose driver's license is suspended for the non-payment of administrative fines to the Authority to pay that fine and fee for the reinstatement of his or her driver's license. It provides that a short-term lessor is not liable for a fine or penalty related to the impoundment of certain vehicles if the vehicle was not in control of the short-term lessor at the time it was impounded. The bill prohibits the short-term lessor from offering, arranging for, or allowing the use of a paid driver whether directly or through an affiliated person.

The amendment as proposed removes the two-thirds requirement previously approved by the Committee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, and that Senate Bill No. 320 upon return from reprint, be declared an emergency measure under the Constitution and placed on third reading and final passage on the next agenda.

Motion carried.

Senator Schneider moved that Senate Bill No. 164 be taken from the General File and placed on the General File on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 211.

Bill read third time.

Remarks by Senator Denis.

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

Senate Bill No. 211 requires the Legislative Committee on Education to conduct a study of the implementation of the Common Core State Standards. The study shall determine the extent to which public elementary and secondary schools have revised curriculum and instruction to implement the Common Core State Standards. The study shall include a review of teacher professional development and revision of the State assessment system. The study must be conducted in consultation with the Nevada Science, Technology, Engineering, and Mathematics (STEM) Education Coalition. The Committee shall report findings and recommendations to the 77th Session of the Legislature.

Roll call on Senate Bill No. 211:

YEAS—21.

NAYS—None.

Senate Bill No. 211 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 278.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 848.

"SUMMARY—Revises provisions relating to health care and health insurance. (BDR 57-253)"

"AN ACT relating to health care; revising provisions governing the modification of contracts between insurers and providers of health care under certain circumstances; requiring the Department of Health and Human Services to report certain rates of reimbursement for physicians for care and services provided pursuant to certain state plans and programs which provide medical assistance; providing that certain requirements concerning health insurance shall be deemed not to apply to certain nonprofit entities; revising the requirement that certain insurers and health care facilities accept a standardized form to obtain information relating to the credentials of a provider of health care; requiring the Department to conduct a study concerning medical homes; requiring the Department to submit reports concerning certain studies to the Legislature; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 8-12, 14 and 15 of this bill require written notice of a contract modification between certain insurers and a provider of health care which involves the insurer's schedule of payments to be sent to the provider at least 45 days before the proposed modification will take effect, and require such insurers, upon request, to submit to a provider of health care with whom they contract any changes to the fee schedule applicable to the provider's practice. **Section 14.5** of this bill imposes similar requirements with respect to contracts between an organization for dental care and a dentist and, consistent with similar provisions of law, provides that such a contract may be modified at any time pursuant to a written agreement executed by both parties.

Section 16 of this bill requires the Department of Health and Human Services, with respect to the State Plan for Medicaid and the Children's Health Insurance Program, to report every rate of reimbursement for physicians which is provided on a fee-for-service basis and which is lower than the rate provided on the current Medicare fee schedule for care and services provided by physicians. **Section 16** also requires the Director of the Department to publish a schedule of such rates of reimbursement on an Internet website maintained by the Department and to submit an annual report concerning such rates to the Legislature.

Section 17.5 of this bill provides that certain requirements concerning health insurance that are enacted after January 1, 2011, shall be deemed not to apply to certain nonprofit entities.

Existing law requires the Commissioner of Insurance to prescribe a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations and managed care organizations to obtain any information relating to the credentials of a provider of health care. (NRS 629.095) **Section 21** of this bill requires the Commissioner to prescribe

that form for use by hospitals, medical facilities and other facilities that provide health care.

Section 24.5 of this bill requires the Department of Health and Human Services to conduct a study concerning medical homes and to submit certain reports concerning the study to the Legislature. **Section 24.7** of this bill imposes similar reporting requirements on the Department with respect to its study of electronic identification cards that contain information relating to health insurance.

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

Section 1. (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. NRS 689A.035 is hereby amended to read as follows:

689A.035 1. An insurer shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider ~~{30}~~ 45 days' written notice of the modification ~~{-}~~ ***of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.*** If the provider fails to object in writing to the modification within the ~~{30-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If an insurer contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments , ***including any changes***

to the fee schedule applicable to the provider's practice, specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 9. NRS 689B.015 is hereby amended to read as follows:

689B.015 1. An insurer that issues a policy of group health insurance shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the insurer to its insureds.

2. An insurer specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the insurer uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between an insurer specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the insurer upon giving to the provider ~~{30} 45~~ days' written notice of the modification ~~{-} of the insurer's schedule of payments, including any changes to the fee schedule applicable to the provider's practice~~. If the provider fails to object in writing to the modification within the ~~{30-day} 45-day~~ period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day} 45-day~~ period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If an insurer specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the insurer shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of **payments , including any changes to the fee schedule applicable to the provider's practice**, specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 10. NRS 689C.435 is hereby amended to read as follows:

689C.435 1. A carrier serving small employers and a carrier that offers a contract to a voluntary purchasing group shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the carrier to its insureds.

2. A carrier specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the carrier uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a carrier specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the carrier upon giving to the provider ~~{30}~~ 45 days' written notice of the modification ~~{-}~~ ***of the carrier's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.*** If the provider fails to object in writing to the modification within the ~~{30-day}~~ 45 day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ 45 day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If a carrier specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the carrier shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments , ***including any changes to the fee schedule applicable to the provider's practice,*** specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 11. NRS 695A.095 is hereby amended to read as follows:

695A.095 1. A society shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the society to its insureds.

2. A society shall not contract with a provider of health care to provide health care to an insured unless the society uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a society and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the society upon giving to the provider ~~{30}~~ 45 days' written notice of the modification ~~{-}~~ ***of the society's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.*** If the provider fails to object in writing to the modification within the ~~{30-day}~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If a society contracts with a provider of health care to provide health care to an insured, the society shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments , ***including any changes to the fee schedule applicable to the provider's practice***, specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 12. NRS 695B.035 is hereby amended to read as follows:

695B.035 1. A corporation subject to the provisions of this chapter shall not charge a provider of health care a fee to include the name of the provider on a list of providers of health care given by the corporation to its insureds.

2. A corporation specified in subsection 1 shall not contract with a provider of health care to provide health care to an insured unless the corporation uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

3. A contract between a corporation specified in subsection 1 and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the corporation upon giving to the provider ~~{30}~~ **45** days' written notice of the modification ~~{-}~~ ***of the corporation's schedule of payments, including any changes to the fee schedule applicable to the provider's practice***. If the provider fails to object in writing to the modification within the ~~{30-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

4. If a corporation specified in subsection 1 contracts with a provider of health care to provide health care to an insured, the corporation shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments , ***including any changes to the fee schedule applicable to the provider's practice***, specified in paragraph (a) within 7 days after receiving the request.

5. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 695C.125 is hereby amended to read as follows:

695C.125 1. A health maintenance organization shall not contract with a provider of health care to provide health care to an insured unless the health maintenance organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a health maintenance organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the health maintenance organization upon giving to the provider ~~{30}~~ 45 days' written notice of the modification ~~{-} of the health maintenance organization's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.~~ If the provider fails to object in writing to the modification within the ~~{30-day}~~ 45-day period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. If a health maintenance organization contracts with a provider of health care to provide health care to an enrollee, the health maintenance organization shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of payments , ***including any changes to the fee schedule applicable to the provider's practice***, specified in paragraph (a) within 7 days after receiving the request.

4. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 14.5. Chapter 695D of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contract between an organization for dental care and a dentist may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the organization for dental care upon giving to the dentist 45 days' written notice of the modification of the organization for dental care's schedule of payments, including any changes to the fee schedule applicable to the dentist's practice. If the dentist fails to object in writing to the modification within the 45-day period, the modification becomes effective at the end of that period. If the dentist objects in writing to the modification within the 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

2. *If an organization for dental care contracts with a dentist, the organization for dental care shall:*

(a) *If requested by the dentist at the time the contract is made, submit to the dentist the schedule of payments applicable to the dentist; or*

(b) *If requested by the dentist at any other time, submit to the dentist the schedule of payments, including any changes to the fee schedule applicable to the dentist's practice, specified in paragraph (a) within 7 days after receiving the request.*

3. The provisions of this section do not apply to an organization for dental care that provides services to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt an organization for dental care from any provision of this chapter for services provided pursuant to any other contract.

Sec. 15. NRS 695G.430 is hereby amended to read as follows:

695G.430 1. A managed care organization shall not contract with a provider of health care to provide health care to an insured unless the managed care organization uses the form prescribed by the Commissioner pursuant to NRS 629.095 to obtain any information related to the credentials of the provider of health care.

2. A contract between a managed care organization and a provider of health care may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the managed care organization upon giving to the provider ~~{30}~~ **45** days' written notice of the modification ~~{}~~ *of the managed care organization's schedule of payments, including any changes to the fee schedule applicable to the provider's practice.* If the provider fails to object in writing to the modification within the ~~{30-day}~~ **45-day** period, the modification becomes effective at the end of that period. If the provider objects in writing to the modification within the ~~{30-day}~~ **45-day** period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

3. If a managed care organization contracts with a provider of health care to provide health care services pursuant to chapter 689A, 689B, 689C, 695A, 695B or 695C of NRS, the managed care organization shall:

(a) If requested by the provider of health care at the time the contract is made, submit to the provider of health care the schedule of payments applicable to the provider of health care; or

(b) If requested by the provider of health care at any other time, submit to the provider of health care the schedule of **payments** , *including any changes to the fee schedule applicable to the provider's practice*, specified in paragraph (a) within 7 days after receiving the request.

4. As used in this section, "provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

Sec. 16. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Department, with respect to the State Plan for Medicaid and the Children's Health Insurance Program, shall report every rate of reimbursement for physicians which is provided on a fee-for-service basis and which is lower than the rate provided on the current Medicare fee schedule for care and services provided by physicians.*

2. *The Director shall post on an Internet website maintained by the Department a schedule of such rates of reimbursement.*

3. *The Director shall, on or before February 1 of each year, submit a report concerning the schedule of such rates of reimbursement to the Director of the Legislative Counsel Bureau for transmittal to the Legislature in odd-numbered years or to the Legislative Committee on Health Care in even-numbered years.*

Sec. 17. NRS 232.290 is hereby amended to read as follows:

232.290 As used in NRS 232.290 to 232.484, inclusive, ***and section 16 of this act***, unless the context requires otherwise:

1. "Department" means the Department of Health and Human Services.

2. "Director" means the Director of the Department.

Sec. 17.5. Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:

Any provision of this chapter which is enacted after January 1, 2011, and requires coverage for screening, diagnosis or treatment of any specific medical condition, or specifies or limits exclusions, limitations or eligibility requirements therefor, shall be deemed not to apply to any nonprofit entity that qualifies under Section 501(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c), as amended.

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. NRS 629.095 is hereby amended to read as follows:

629.095 1. Except as otherwise provided in subsection 2, the Commissioner of Insurance shall develop, prescribe for use and make available a single, standardized form for use by insurers, carriers, societies, corporations, health maintenance organizations , ~~{and}~~ managed care organizations , ***hospitals, medical facilities and other facilities that provide health care*** in obtaining any information related to the credentials of a provider of health care.

2. The provisions of subsection 1 do not prohibit the Commissioner of Insurance from developing, prescribing for use and making available:

(a) Appropriate variations of the form described in that subsection for use in different geographical regions of this State.

(b) Addenda or supplements to the form described in that subsection to address, until such time as a new form may be developed, prescribed for use and made available, any requirements newly imposed by the Federal Government, the State or one of its agencies, or a body that accredits hospitals, medical facilities or health care plans.

3. With respect to the form described in subsection 1, the Commissioner of Insurance shall:

(a) Hold public hearings to seek input regarding the development of the form;

(b) Develop the form in consideration of the input received pursuant to paragraph (a);

(c) Ensure that the form is developed in such a manner as to accommodate and reflect the different types of credentials applicable to different classes of providers of health care;

(d) Ensure that the form is developed in such a manner as to reflect standards of accreditation adopted by national organizations which accredit hospitals, medical facilities and health care plans; and

(e) Ensure that the form is developed to be used efficiently and is developed to be neither unduly long nor unduly voluminous.

4. As used in this section:

(a) "Carrier" has the meaning ascribed to it in NRS 689C.025.

(b) "Corporation" means a corporation operating pursuant to the provisions of chapter 695B of NRS.

(c) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(d) "Insurer" means:

(1) An insurer that issues policies of individual health insurance in accordance with chapter 689A of NRS; and

(2) An insurer that issues policies of group health insurance in accordance with chapter 689B of NRS.

(e) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

(f) "Provider of health care" means a provider of health care who is licensed pursuant to chapter 630, 631, 632 or 633 of NRS.

(g) "Society" has the meaning ascribed to it in NRS 695A.044.

Sec. 22. (Deleted by amendment.)

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 24.5. 1. The Department of Health and Human Services shall conduct a study concerning medical homes. The study must include, without limitation, an evaluation of:

(a) The progress made in the development of medical homes in this State;

(b) The manner in which insurers work with medical homes concerning the adequacy of health care networks; and

(c) Models for reimbursement of medical homes and any options for different methods of preauthorization for the care and services provided by medical homes.

2. The Department shall:

(a) During the calendar year 2012, submit such progress reports concerning the study to the Legislative Committee on Health Care as requested by the Committee; and

(b) On or before January 1, 2013, submit a final report concerning the findings of the study, including the potential cost to this State of such medical homes and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

3. As used in this section, "medical home" means a medical practice which utilizes a model for the delivery of health care:

(a) In which a patient establishes an ongoing relationship with a physician in a physician-directed team; and

(b) The purpose of which is to provide comprehensive, accessible and continuous evidence-based primary and preventive care and to coordinate the health care needs of the patient across the health care system to improve quality, safety, access and health outcomes in a cost-effective manner.

Sec. 24.7. The Department of Health and Human Services, with respect to the study being conducted by the Department concerning electronic identification cards that contain information relating to health insurance, shall:

1. During the calendar year 2012, submit such progress reports concerning the study to the Legislative Committee on Health Care as requested by the Committee; and

2. On or before January 1, 2013, submit a final report concerning the findings of the study, including the potential cost to this State of such electronic identification cards and any recommendations for legislation, to the Director of the Legislative Counsel Bureau for transmittal to the 77th Session of the Nevada Legislature.

Sec. 25. 1. This section and section 17.5 of this act become effective upon passage and approval.

2. Sections 1 to 17, inclusive, 18, 19, 20 and 22 to 24.7, inclusive, of this act become effective on July 1, 2011.

3. Section 21 of this act becomes effective on January 1, 2012.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 848 requires written notice of a contract modification between insurers and providers of health care services. The notice must be provided at least 45 days prior to the effective date, which is an increase from the 30 days currently in statute. This requirement is also applicable to dental care and dentists; however, it does not apply to organizations that provide dental services to recipients of Medicaid or Nevada Check Up. Additionally, Senate Bill No. 278

requires the Department of Health and Human Services to report every rate of reimbursement for physicians that is provided on a fee-for-service basis through the Medicaid and Nevada Check Up programs and is lower than the rate currently paid for Medicare services. The rate schedules are to be published on the Department's web site. The Department is also required to submit an annual report to the Legislature regarding these rates.

The statute requires the Insurance Commissioner to prescribe a single, standardized form for insurance providers to obtain information regarding the credentials of health care providers. Senate Bill No. 278, as amended, requires the Insurance Commissioner to prescribe that this form be used by hospitals, medical facilities and other facilities that provide health care.

I would like to thank the cosponsor of this bill, Senator Hardy, for working with me on this measure and the amendments proposed.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, and that Senate Bill No. 278 be declared an emergency measure under the Constitution and placed on third reading and final passage on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 338.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 849.

"SUMMARY—Revises provisions relating to reports of certain medical and related facilities. (BDR 40-261)"

"AN ACT relating to public health; requiring certain facilities for skilled nursing to submit information to 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; ~~requiring reports and publication of certain information relating to the readmission of patients who received care in hospitals;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires each facility for skilled nursing which provided medical services and care to an average of 25 or more patients during each business day in the immediately preceding calendar year to 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. **Section 1** also provides that other facilities for skilled nursing may participate in the system. **Section 1** additionally requires the Health Division of the Department of Health and Human Services to report the information submitted to the system by all medical facilities on or after October 15, 2010, and skilled nursing facilities on or after January 1, 2012

and include the reports on the Internet website maintained by the Department.

~~{Section 2 of this bill requires hospitals to submit, as part of the program to increase public awareness of health care information, data relating to potentially preventable readmissions. Section 1.5 of this bill defines a potentially preventable readmission as an unplanned readmission which occurs not more than 30 days after a patient was discharged and which is clinically related to the initial admission and was preventable.} Section 4 of this bill requires the Department of Health and Human Services to post that information on an Internet website. {Existing law authorizes the Department to seek injunctive relief or civil penalties against facilities that violate the reporting requirements. (NRS 439A.300, 439A.310)}~~

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

Section 1. NRS 439.847 is hereby amended to read as follows:

439.847 1. Each medical facility *and facility for skilled nursing* 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 *or facility for skilled nursing* 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 ~~{}~~ *or facility for skilled nursing*, including, without limitation, information relating to infections and procedures.

2. Each medical facility *or facility for skilled nursing* 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 *or facility for skilled nursing* 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.}~~ *by:*

(1) A medical facility, on or after October 15, 2010; and

(2) A facility for skilled nursing, on or after January 1, 2012; and

(b) Provide consent for the Health Division to prepare and post reports pursuant to paragraph (b) of subsection 4, including, without limitation, permission to identify the medical facility or facility for skilled nursing that is the subject of each report:

(1) For a medical facility, on or after October 15, 2010; and

(2) For a facility for skilled nursing, on or after January 1, 2012.

4. The Health Division ~~{shall}~~ :

(a) Shall analyze the information submitted to the system by medical facilities and facilities for skilled nursing pursuant to this section and recommend regulations and legislation relating to the reporting required pursuant to NRS 439.800 to 439.890, inclusive.

(b) Shall prepare a report of the information submitted to the system by each medical facility and each facility for skilled nursing pursuant to this section and provide the reports for inclusion on the Internet website maintained by the Department. The information must be reported in a manner that allows a person to compare the information for the medical facilities and for the facilities for skilled nursing.

(c) Shall enter into an agreement with the Division of Healthcare Quality Promotion to carry out the provisions of this section.

5. As used in this section, "facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

Sec. 1.5. ~~{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.] (Deleted by amendment.)~~

Sec. 1.7. ~~{NRS 439A.200 is hereby amended to read as follows:~~

~~439A.200 As used in NRS 439A.200 to 439A.290, inclusive, and section 1.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 439A.205 and 439A.210 and section 1.5 of this act have the meanings ascribed to them in those sections.] (Deleted by amendment.)~~

Sec. 2. NRS 439A.220 is hereby amended to read as follows:

439A.220 1. The Department shall establish and maintain a program to increase public awareness of health care information concerning the hospitals in this State. The program must be designed to assist consumers with comparing the quality of care provided by the hospitals in this State and the charges for that care.

2. The program must include, without limitation, the collection, maintenance and provision of information concerning:

(a) Inpatients and outpatients of each hospital in this State as reported in the forms submitted pursuant to NRS 449.485;

(b) The quality of care provided by each hospital in this State as determined by applying uniform measures of quality prescribed by the Department pursuant to NRS 439A.230;

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported for the ~~{50 most frequent}~~ diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; and

~~(e) {The total number of patients discharged from the hospital and the total number of potentially preventable readmissions, which must be expressed as a rate of occurrence of potentially preventable readmissions and the average length of stay for those potentially preventable readmissions; and~~

~~—(f)}~~ Any other information relating to the charges imposed and the quality of the services provided by the hospitals in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

3. As used in this section, "diagnosis-related group" means groupings of medical diagnostic categories used as a basis for hospital payment schedules by Medicare and other third-party health care plans.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 439A.270 is hereby amended to read as follows:

439A.270 1. The Department shall establish and maintain an Internet website that includes the information concerning the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State as required by the programs established pursuant to NRS 439A.220 and 439A.240. The information must:

(a) Include, for each hospital in this State, the total ~~≠~~
~~—(1) Total~~ number of patients discharged, the average length of stay and the average billed charges, reported for the ~~{50 most frequent}~~ diagnosis-related groups for inpatients and 50 medical treatments for outpatients that the Department determines are most useful for consumers; ~~and~~

~~—(2) 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 of those potentially preventable readmissions, reported by the diagnosis related group for inpatients for which the patient originally received treatment at the 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 (d) of subsection 1 of NRS 439.840; and

(h) Provide any other information relating to the charges imposed and the quality of the services provided by the hospitals and surgical centers for ambulatory patients in this State which the Department determines is:

- (1) Useful to consumers;
- (2) Nationally recognized; and
- (3) Reported in a standard and reliable manner.

2. The Department shall:

(a) Publicize the availability of the Internet website;

(b) Update the information contained on the Internet website at least quarterly;

(c) Ensure that the information contained on the Internet website is accurate and reliable;

(d) Ensure that the information *reported by a hospital or surgical center for ambulatory patients for inpatients and outpatients which is* contained on the Internet website is ~~aggregated~~ *expressed as a total number and as a rate, and must be reported in a manner* so as not to reveal the identity of a specific inpatient or outpatient of a hospital ~~[-]~~ *or surgical center for ambulatory patients;*

(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. 5. The Department of Health and Human Services shall adopt the regulations necessary to carry out the provisions of this act on or before January 1, 2012.

Sec. 6. This act becomes effective upon passage and approval for purposes of adopting regulations and on January 1, 2012, for all other purposes.

Senator Horsford moved the adoption of the amendment.

Remarks by Senator Horsford.

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

Amendment No. 849 requires each medical facility and each skilled nursing facility that provides care to 25 or more patients in the immediately preceding calendar year to participate in the Internet-based surveillance system established by the Division of Healthcare Quality Promotion of the federal Centers for Disease Control. The Health Division is required to access and report the information submitted to this system by all medical facilities on or after October 15, 2010, and by skilled nursing facilities on or after January 1, 2012, and then publish its report on the Department of Health and Human Services' website.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, and that Senate Bill No. 338 be declared an emergency measure under the Constitution and placed on third reading and final passage on the next agenda.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 418.

Bill read third time.

Roll call on Senate Bill No. 418:

YEAS—11.

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

Senate Bill No. 418 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 449.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 870.

"SUMMARY—Revises provisions governing tuition charges, registration fees and other fees assessed against students in the Nevada System of Higher Education. (BDR 34-932)"

"AN ACT relating to the Nevada System of Higher Education; authorizing the Board of Regents of the University of Nevada to fix tuition charges and assess registration fees and other fees based on the demand for or the costs of providing the academic program or major for which the tuition charges are fixed or the registration fees are assessed; requiring the Board of Regents to establish a program authorizing scholarships and reduced fees for students who are economically disadvantaged under certain circumstances; requiring the Board of Regents to make certain reports to the Legislature; **requiring the Director of the Department of Employment, Training and Rehabilitation to provide certain information on employment and wages to the Board of Regents for purposes of the report made by the Board of Regents;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Board of Regents of the University of Nevada to fix tuition charges for students at all campuses of the Nevada System of Higher Education. The tuition charges are in addition to any registration fees or other fees assessed against a student. (NRS 396.540) **Section 2** of this bill authorizes the Board of Regents, in fixing tuition charges and assessing registration fees and other fees, to adjust the amount of the tuition charges and registration and other fees based on the demand for or the costs of carrying out the academic program or major for which the tuition charges or registration or other fees are assessed. The adjustment may be based on factors such as the cost of professional instruction, the cost of laboratory resources and ancillary costs. **Section 2** also provides that if the Board of Regents adjusts the amount of tuition charges, registration fees or other fees based on the demand for or the cost of an academic program or major, the Board is required to establish a program to authorize scholarships and reduced fees for students who are economically disadvantaged and who are enrolled in academic programs or majors which are more costly as a result of the adjustments authorized by this bill. Finally, **section 2** requires the Board of Regents to submit an annual report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which identifies the demand for and the costs of each academic program and major and includes a schedule of all tuition charges, registration fees and other fees assessed for each academic program and major.

Section 3 of this bill requires the Board of Regents to submit a biennial report to the Legislature including certain information on: (1) the number and

percentage of students who complete academic programs at an institution within the System with a degree or certificate and a comparison with national statistics; (2) initiatives undertaken by the Board of Regents to increase the rate of students who complete academic programs with a degree or certificate; (3) ~~based upon surveys of students,~~ the employment rate of students who complete a degree or certificate program **and obtain employment in this State** and the average starting salary; and (4) initiatives undertaken by the Board of Regents to align the degree and certificate programs offered by institutions within the System with the economic development goals identified by the Commission on Economic Development.

Existing law creates the Department of Employment, Training and Rehabilitation, provides for a Director of the Department and imposes certain duties on the Director. (NRS 232.910, 232.920) Section 3.5 of this bill requires the Director to provide certain employment and wage information to the Board of Regents for purposes of the report required of the Board of Regents by section 3 of this bill.

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

Section 1. Chapter 396 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *In fixing a tuition charge for students at any campus of the System as provided by NRS 396.540 and in setting the amount of registration fees and other fees which are assessed against students, the Board of Regents may provide for the adjustment of the amount of the tuition charge or registration fee or other fee based on the demand for or the costs of carrying out the academic program or major for which the tuition charge, registration fee or other fee is assessed, including, without limitation, the costs of professional instruction, laboratory resources and other ancillary support.*

2. If the Board of Regents provides for the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1, the Board of Regents shall establish a program to authorize scholarships and reduced fees for students who are economically disadvantaged and who are enrolled in academic programs or majors for which the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1 results in an increase in the costs of enrollment in such programs or majors.

3. If the Board of Regents provides for the adjustment of tuition charges, registration fees or other fees in the manner authorized by subsection 1, the Board of Regents shall, on or before February 1 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the Legislature is not in session, which must, without limitation:

(a) Identify the demand for each academic program and major;

(b) *Identify the costs of providing each academic program and major; and*

(c) *Include a schedule of all tuition charges, registration fees and other fees assessed for each academic program and major.*

4. *As used in this section, "tuition charge" has the meaning ascribed to it in NRS 396.540.*

Sec. 3. *The Board of Regents shall, on or before February 1 of each odd-numbered year submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature which includes:*

1. *By institution within the System and by each academic program at the institution:*

(a) *The number of students who enter the academic program;*

(b) *The percentage of students who complete the academic program; and*

(c) *The average length of time for completion of the academic program to obtain a degree or certificate.*

2. *A comparison of the data which is reported pursuant to subsection 1 with available national metrics measuring how states throughout the country rank in the completion of academic programs leading to a degree or certificate and the average time for completion of those programs.*

3. *Initiatives undertaken by the Board of Regents to increase the rate of students who complete degree and certificate programs, including initiatives to shorten the time to complete those programs.*

4. ~~*Based upon surveys of students who have completed an academic program and obtained a degree or certificate, the*~~ *The number and percentage of students who have obtained employment within their field of study ~~++~~ in this State, and the average starting salary, which must be reported by institution within the System and by each academic program at the institution. The data must be ~~matched~~ :*

(a) *Matched with industries identified in state economic development goals to determine whether students who graduated and obtained a degree or certificate are finding employment in those industries ~~++~~ in this State; and*

(b) *Based upon the employment and wage information provided by the Director of the Department of Employment, Training and Rehabilitation pursuant to NRS 232.920.*

5. *Initiatives undertaken by the Board of Regents to align the degree and certificate programs offered by the institutions within the System with the economic development goals identified by the Commission on Economic Development.*

Sec. 3.5. **NRS 232.920 is hereby amended to read as follows:**

232.920 The Director:

1. Shall:

(a) Organize the Department into divisions and other operating units as needed to achieve the purposes of the Department;

(b) Upon request, provide the Director of the Department of Administration with a list of organizations and agencies in this State whose primary purpose is the training and employment of persons with disabilities; ~~and~~

(c) Except as otherwise provided by a specific statute, direct the divisions to share information in their records with agencies of local governments which are responsible for the collection of debts or obligations if the confidentiality of the information is otherwise maintained under the terms and conditions required by law ~~to~~; and

(d) Provide the employment and wage information to the Board of Regents of the University of Nevada for purposes of the reporting required of the Board of Regents by subsection 4 of section 3 of this act.

2. Is responsible for the administration, through the divisions of the Department, of the provisions of NRS 426.010 to 426.720, inclusive, 426.740, 426.790 and 426.800, and chapters 612 and 615 of NRS, and all other provisions of law relating to the functions of the Department and its divisions, but is not responsible for the professional line activities of the divisions or other operating units except as otherwise provided by specific statute.

3. May employ, within the limits of legislative appropriations, such staff as is necessary for the performance of the duties of the Department.

Sec. 4. This act becomes 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.

Amendment No. 870 requires the Director of the Department of Employment, Training and Rehabilitation to provide certain information on employment and wages to the Board of Regents for the purposes of the report that is required under this provision of the bill by the Board of Regents.

Amendment adopted.

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

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Assembly Bills Nos. 48, 100, 148, 247, 531, 570, be taken from the General File and placed on the General File on the next agenda.

Motion carried.

Senator Horsford moved that all necessary rules be suspended, and that Senate Bill No. 449 be declared an emergency measure under the Constitution and placed on third reading and final passage on the next agenda.

Motion carried.

Senator Horsford moved that all Unfinished Business be moved to the next agenda.

Motion carried.

Senator Horsford moved that the Senate recess until 4 p.m.

Motion carried.

Senate in recess at 12:27 p.m.

SENATE IN SESSION

At 5:17 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

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

Your Committee on Commerce, Labor and Energy, to which were referred Assembly Bill Nos. 359, 524, 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 Natural Resources, to which was referred Assembly Bill No. 525, 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 Revenue, 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: Amend, and do pass as amended.

SHEILA LESLIE, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that all necessary rules be suspended, all bills and resolutions reported out of committee be immediately placed, on the appropriate files, time permitting, for this legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 164.

Bill read third time.

The following amendment was proposed by Senator Schneider:

Amendment No. 859.

"SUMMARY—Revises provisions relating to ~~senior claims examiners for~~ third-party administrators. (BDR 57-232)"

"AN ACT relating to persons involved in the administration of insurance; ~~requiring senior claims examiners for third-party administrators to be licensed; providing a penalty;~~ authorizing the Administrator of the Division of Industrial Relations of the Department of Business and

Industry to conduct certain investigations and examinations of third-party administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a third-party administrator for an insurer to have a certificate of registration issued by the Commissioner of Insurance. (NRS 616B.500, 616B.503, 683A.085)

~~[Section 7 of this bill prohibits a senior claims examiner from working for a third-party administrator without a license. Section 8 of this bill provides the application process for such a license. Section 10 of this bill provides that such a license expires after 5 years and may be renewed. Sections 1 and 2 of this bill provide the fees for the application for and the renewal of such a license. Section 11 of this bill provides for disciplinary action against a licensee. Section 12 of this bill provides a penalty for working without such a license. Section 13 of this bill provides a penalty for a third-party administrator for hiring or retaining an unlicensed senior claims examiner or for failing to conduct a reasonable investigation as to whether a prospective employee is licensed.]~~

Section 16.5 of this bill ~~allows~~ **authorizes** the Administrator of the Division of Industrial Relations of the Department of Business and Industry to determine whether a third-party administrator has adequate facilities in this State to administer claims and to conduct such investigations and examinations of third-party administrators as the Administrator deems reasonable. ~~[Section 17 of this bill requires the Administrator to prescribe by regulation the qualifications for a senior claims examiner.]~~

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. 16.5. NRS 616A.400 is hereby amended to read as follows:

616A.400 The Administrator shall:

1. Prescribe by regulation the time within which adjudications and awards must be made.

2. Regulate forms of notices, claims and other blank forms deemed proper and advisable.

3. Prescribe by regulation the methods by which an insurer may approve or reject claims, and may determine the amount and nature of benefits payable in connection therewith.

4. Prescribe by regulation the method for reimbursing an injured employee for expenses necessarily incurred for travel more than 20 miles one way from the employee's residence or place of employment to his or her destination as a result of an industrial injury.

5. Determine whether an insurer *or third-party administrator* has provided adequate facilities in this State to administer claims and for the retention of a file on each claim.

6. Evaluate the services of private carriers provided to employers in:

(a) Controlling losses; and

(b) Providing information on the prevention of industrial accidents or occupational diseases.

7. Conduct such investigations and examinations of insurers *or third-party administrators* as the Administrator deems reasonable to determine whether any person has violated the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or to obtain information useful to enforce or administer these chapters.

8. Prescribe by regulation the qualifications for final approval by the Division of an applicant for a certificate of registration as an administrator pursuant to subsection 3 of NRS 683A.08524. The regulations must set forth qualifications which provide for the final approval of those applicants whose approval is in the best interests of the people of this State.

9. Except with respect to any matter committed by specific statute to the regulatory authority of another person or agency, adopt such other regulations as the Administrator deems necessary to carry out the provisions of chapters 616A to 617, inclusive, of NRS.

Sec. 17. (Deleted by amendment.)

Sec. 18. ~~{1.} This {section becomes effective upon passage and approval.~~

~~2. Section 16.5 of this act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012, for all other purposes.~~

~~{3. Sections 1 to 16, inclusive, and 17 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2013, 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.

This amendment guts the bill. It puts in only Section 16.5, which has been agreed to by everyone. This is a worker compensation bill. It was controversial because someone would have to pay a fee. There is no fee in this bill now.

Amendment adopted.

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

Senate Bill No. 278.

Bill read third time.

Roll call on Senate Bill No. 278:

YEAS—21.

NAYS—None.

Senate Bill No. 278 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 320.

Bill read third time.

Roll call on Senate Bill No. 320:

YEAS—21.

NAYS—None.

Senate Bill No. 320 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 338.

Bill read third time.

Roll call on Senate Bill No. 338:

YEAS—21.

NAYS—None.

Senate Bill No. 338 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 449.

Bill read third time.

Roll call on Senate Bill No. 449:

YEAS—21.

NAYS—None.

Senate Bill No. 449 having received a constitutional majority,
Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 493.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that Senate Bill No. 493 be placed at the bottom of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 48.

Bill read third time.

Roll call on Assembly Bill No. 48:

YEAS—21.

NAYS—None.

Assembly Bill No. 48 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 100.

Bill read third time.

Roll call on Assembly Bill No. 100:

YEAS—21.

NAYS—None.

Assembly Bill No. 100 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 148.

Bill read third time.

Roll call on Assembly Bill No. 148:

YEAS—21.

NAYS—None.

Assembly Bill No. 148 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 247.

Bill read third time.

Roll call on Assembly Bill No. 247:

YEAS—14.

NAYS—Brower, Cegavske, Gustavson, Halseth, Kieckhefer, Roberson, Settlemeyer—7.

Assembly Bill No. 247 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 531.

Bill read third time.

Roll call on Assembly Bill No. 531:

YEAS—21.

NAYS—None.

Assembly Bill No. 531 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 570.

Bill read third time.

Remarks by Senators Parks and Settelmeyer.

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

SENATOR PARKS:

Assembly Bill No. 570 revises the districts from which the Board of Regents of the University of Nevada are elected.

The measure retains a 13-member Board. The ideal population in each Board district is 153,712. The overall range of population deviation is 0.41 percent. The plan includes nine Board of Regents districts wholly in Clark County, one district partially in Clark County, one district wholly in Washoe County, one district in parts of Washoe County and Pershing County, and one district containing the remaining 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.

SENATOR SETTELMAYER:

Thank you, Mr. President. I rise in support of the comments I made in Committee. This is a good map. It obeys the Voting Rights Act. I think everyone will support it. It is a very good map.

Roll call on Assembly Bill No. 570:

YEAS—21.

NAYS—None.

Assembly Bill No. 570 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, June 3, 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. 383, 575.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 380, 503.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 688 to Assembly Bill No. 301; Senate Amendment No. 748 to Assembly Bill No. 360; Senate Amendment No. 590 to Assembly Bill No. 410; Senate Amendment No. 836 to Assembly Bill No. 473; Senate Amendment No. 751 to Assembly Bill No. 549.

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. 632 to Assembly Bill No. 376.

Also, I have the honor to inform your honorable body that the Assembly on this day receded from its action on Senate Bill No. 101, Assembly Amendment No. 659.

MATTHEW BAKER

Assistant Chief Clerk of the Assembly

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 24.

The following Assembly amendment was read:

Amendment No. 731.

"SUMMARY—Revises provisions concerning writs of execution in justice courts. (BDR 6-321)"

"AN ACT relating to courts; revising provisions concerning writs of execution in justice courts; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a writ of execution in a justice court may be issued by the justice of the peace who entered the judgment or any successor in office. (NRS 70.010) A justice of the peace may also renew such a writ of execution. (NRS 70.030) Additionally, existing law requires that a writ of execution in a justice court must contain certain information. (NRS 70.020)

Sections 1 and 2 of this bill authorize a justice of the peace or the clerk of the justice court, **under the direction and supervision of a justice of the peace,** to issue writs of execution in the justice court. **Section 2** also revises the required information that such a writ of execution must contain. **Section 3** of this bill provides that in addition to issuing writs of execution, a justice of the peace or the clerk of the justice court, **under the direction and supervision of a justice of the peace,** may also renew writs of execution.

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

Section 1. NRS 70.010 is hereby amended to read as follows:

70.010 1. Execution for the enforcement of a judgment of a justice court may be issued by ~~{the} a justice {who entered the judgment, or any successor in office.}~~ **or the clerk of the court, under the direction and supervision of a justice,** on the application of the party entitled thereto, at any time within 6 years from the entry of judgment.

2. The court, or any justice thereof, may stay the execution of any judgment, including any judgment in a case of forcible or unlawful detainer, for a period not exceeding 10 days.

Sec. 2. NRS 70.020 is hereby amended to read as follows:

70.020 The execution must:

1. Be directed to a sheriff of any county in the State or to a constable of the county in which the justice court is located.

2. Be ~~{subscribed by the justice.}~~ **issued in the name of the State of Nevada, sealed with the seal of the court and subscribed by a justice or the clerk of the justice court ~~f-7~~, under the direction and supervision of a justice.**

3. ~~{Bear date the day of its delivery to the officer.~~

4. ~~{}~~ Intelligibly refer to the judgment, by stating the ~~{names}~~ :

(a) *Justice court in which the judgment was entered;*

(b) *Date when the judgment was entered;*

(c) *Names of the parties ~~[-, and the name]~~ ;*

(d) *Name of the justice ~~[before whom, and of the county]~~ who entered the judgment; and*

(e) *County and the township or city where ~~[-, and the time when it was rendered.~~*

~~—5.] the judgment was entered.~~

4. State the ~~[amount of]~~ judgment, *and* if it ~~[be]~~ *is* for money, ~~[and, if less than the whole is due,]~~ the ~~[true]~~ amount *thereof, and the amount actually* due thereon.

~~[6.]~~ 5. Contain, in like cases, similar directions to the sheriff or constable, as are required by the provisions of chapter 21 of NRS, in an execution to the sheriff.

Sec. 3. NRS 70.030 is hereby amended to read as follows:

70.030 An execution may, at the request of the judgment creditor, be renewed before the expiration of the time fixed for its return, by the word "renewed" written thereon, with the date thereof, and subscribed by ~~[the justice.]~~ *a justice or the clerk of the justice court ~~[-]~~ , under the direction and supervision of a justice.* Such renewal has the effect of an original issue ~~[-]~~ and may be repeated as often as necessary. If an execution is returned unsatisfied, another may be afterwards issued.

Sec. 4. NRS 70.050 is hereby amended to read as follows:

70.050 ~~[The]~~ *Except as otherwise provided in this chapter, the* provisions of chapter 21 of NRS are applicable to justice courts, the word "justice" being inserted in lieu of the ~~[words]~~ word "judge" ~~[and "clerk" whenever they occur.]~~ *wherever the word appears* and the word "constable" being ~~[substituted to that end for]~~ *inserted in lieu of* the word ~~["sheriff."]~~ *"sheriff" wherever the word appears.*

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

Senator Wiener moved that the Senate concur in the Assembly amendment to Senate Bill No. 24

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 40.

The following Assembly amendment was read:

Amendment No. 612

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

"AN ACT relating to real property; requiring ~~[the State Public Works Board to adopt]~~ **certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting**

regulations concerning the construction, maintenance, operation ~~and~~ **or** safety of ~~certain~~ buildings and structures; ~~requiring the deputy manager for compliance and code enforcement to make recommendations to the Board concerning such regulations;~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Section 1 of this bill requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government. Section 2 of this bill requires the deputy manager for compliance and code enforcement to make recommendations to the Board concerning these regulations.~~

Existing law requires the State Public Works Board to appoint a deputy manager for compliance and code enforcement, who serves as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government. (NRS 341.100)

Existing law **also** authorizes or, in some cases, requires certain state agencies and officials to adopt regulations concerning the construction, maintenance, operation or safety of certain buildings or structures. (NRS 446.940, 449.250-449.430, 455C.110, 461.170, 472.040, 477.030) Specifically, these agencies and officials include the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden and the State Fire Marshal. Sections 4-11 of this bill ~~prohibit these state agencies and officials from adopting regulations which apply to the buildings and structures on property of this State or held in trust for any division of State Government and which conflict with the regulations adopted by the State Public Works Board.~~ **require these state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures in the State. Section 2 of this bill requires the deputy manager to consult with such an agency or official and to provide recommendations regarding how the agency or official's regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.**

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

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

~~1. Subject to the provisions of subsection 2, the Board shall adopt regulations concerning the construction, maintenance, operation and safety~~

~~of buildings and structures on property of this State or held in trust for any division of the State Government.~~

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

Sec. 2. NRS 341.100 is hereby amended to read as follows:

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

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

(a) A deputy manager for professional services; and

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

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

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

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

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

6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of administration and a working knowledge of the principles of engineering or architecture as determined by the Board.

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

8. The Manager shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the Board.

(c) Represent the Board before the Legislature.

(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

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

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

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

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

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

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

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

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

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

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

(b) ~~{Provide}~~ *Consult with an agency or official that is considering adoption of a regulation described in sections 4, 5 or 8 to 11, inclusive, of this act and provide recommendations regarding [regulations that the Board adopts pursuant to section 1 of this act concerning the construction, maintenance, operation and safety of] how the regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government ~~{}~~ , may be made consistent with other regulations which apply to such buildings or structures.*

Sec. 3. NRS 353.590 is hereby amended to read as follows:

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

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

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

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

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

4. The provisions of:

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

(b) NRS 341.105,

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

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

~~[Notwithstanding any provision of law to the contrary,]~~ **Before the State Board of Health may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted pursuant to section 1 of this act.~~, the Board shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

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

~~[Notwithstanding any provision of law to the contrary,]~~ **Before the State Department may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~, the State Department shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

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

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

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

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

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

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

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

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

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

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

7. "Nonprofit health facility" means any health facility owned and operated by a corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or natural person.

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

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

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

~~[Notwithstanding any provision of law to the contrary.]~~ **Before the Division may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

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

~~[Notwithstanding any provision of law to the contrary.]~~ **Before the Division may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

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

~~[Notwithstanding any provision of law to the contrary.]~~ **Before the State Forester Firewarden may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~, the State Forester Firewarden shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

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

~~[Notwithstanding any provision of law to the contrary.]~~ **Before the State Fire Marshal may ~~not~~ adopt any regulation concerning the construction, maintenance, operation or safety of a building, ~~for~~ structure ~~on property off~~ or other property in this State ~~for held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~ that is a state-owned building or facility, the State Fire Marshal shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.**

Sec. 12. ~~[Any regulations of the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal existing on the effective date of this act which concern the construction, maintenance, operation or safety of buildings or structures~~

~~on property of this State or held in trust for any division of the State Government remain in effect until the State Public Works Board adopts the regulations required pursuant to section 1 of this act.] (Deleted by amendment.)~~

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

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 40

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 65.

The following Assembly amendment was read:

Amendment No. 645.

"SUMMARY—Revises provisions concerning the ~~quarterly~~ publication of certain financial information by certain local governments. (BDR 21-400)"

"AN ACT relating to local financial administration; revising provisions concerning the ~~quarterly~~ publication of certain financial information by an incorporated city or a county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the clerk and council of each city incorporated under general law or charter to publish in a newspaper a quarterly statement of the city's finances that shows the receipts and disbursements and the details of each bill that the city has paid. (NRS 268.030) **Section 2** of this bill requires the publication of only the total amounts of the city's receipts, disbursements and bills paid for the quarter but expressly provides that the receipts, bills and other documents which support each transaction that is included in the published totals are public records which are available for inspection and copying. **Section 2** also requires publication of the financial statement on the Internet website of the city, if the city maintains an Internet website. **Section 1** of this bill eliminates a duplicative requirement for the publication of financial information that only applies to the city clerks of cities incorporated under general law.

Under existing law, a board of county commissioners is required to publish in a newspaper a quarterly financial statement of receipts, expenditures and bills allowed. (NRS 244.225, 354.210) **Sections 3 and 4** ~~5~~ of this bill require the publication of only the total amounts of the county's receipts, expenditures and bills allowed but expressly provides that the receipts, bills and other documents which support each transaction that is included in the published totals are public records which are available for inspection and copying. **Sections 3 and 4** ~~5~~ also require publication of the financial statement on the Internet website of the county if the county maintains an Internet website.

Section 4 of this bill requires the Committee on Local Government Finance to adopt regulations regarding the appropriate format for the financial statements posted on the Internet website of cities and counties.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 266.480 is hereby amended to read as follows:

266.480 The city clerk shall:

1. Keep the office of the city clerk at the place of meeting of the city council, or some other place convenient thereto, as the council may direct.
2. Keep the corporate seal and all papers and records of the city.
3. Keep a record of the proceedings of the city council, whose meetings the city clerk shall attend.
4. Countersign all contracts made in behalf of the city, and every such contract or contracts to which the city is a party shall be void unless signed by the city clerk.

~~{5. Cause to be published quarterly in some newspaper published in the city a statement of the finances of the city, showing receipts and disbursements, and bills allowed and paid. The statement shall be signed by the mayor and attested by the city clerk. If there should be no newspaper published in the county, the financial statement shall be published in a newspaper of general circulation in the county.}~~

Sec. 2. NRS 268.030 is hereby amended to read as follows:

268.030 1. After March 23, 1939, the city clerk and city council of every incorporated city in this state, whether incorporated under the provisions of chapter 266 of NRS or under the provisions of a special act, shall cause to be published quarterly in some newspaper, published as hereinafter provided, a statement of the finances of the city, showing **the total amounts of** receipts, ~~and~~ disbursements ~~[-, exhibiting in detail the]~~ **and bills allowed and paid [-] for the period covered by the statement.** The statement ~~{shall be}~~ **must:**

- (a) **Inform the public of the provisions of subsection 3;**
- (b) **If the city maintains an official Internet website, inform the public of where the financial statement is posted on the Internet website pursuant to subsection 2;**
- (c) **Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;**
- (d) **Provide the address of the city office or offices where the public may view the detailed financial documents;**
- (e) **Be signed by the mayor and attested by the city clerk ; [-] and {shall be}**
- (f) **Be published in a newspaper published in {such} the city [-] for a period of at least 5 consecutive days.** If ~~{there shall be}~~ no newspaper is published in ~~{such} the~~ city, then the financial statement ~~{shall}~~ **must** be published in a newspaper published in the county, and if ~~{there be}~~ no newspaper **is** published in the county, ~~{such} the~~ financial statement ~~{shall}~~

must be published in a newspaper of general circulation in the county or posted by the city clerk at the door of the city hall.

2. *If a city maintains an official Internet website, the city clerk and city council shall ~~cause to be published~~ maintain and update quarterly on the Internet website of the city a statement of the finances of the city, showing the ~~total amounts of~~ receipts, disbursements and bills allowed and paid for the period covered by the statement. The statement must:*

- (a) *Inform the public of the provisions of subsection 3;*
- (b) *Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;*
- (c) *Provide the address of the city office or offices where the public may view the detailed financial documents; and*
- (d) *Be signed by the mayor and attested by the city clerk. ~~and~~*
- ~~—(e) Be published on the Internet website of the city for a period of at least 5 consecutive days.]~~

3. *The original and any duplicate or copy of each receipt, bill, invoice, check, warrant, voucher or other similar document that supports a transaction, the amount of which is ~~included in the total amounts~~ shown in the financial statement published pursuant to this section is a public record that is available for inspection and copying by any person pursuant to the provisions of chapter 239 of NRS.*

4. Any city officer ~~in this state~~ who ~~shall violate~~ violates the provisions of this section ~~shall be deemed~~ is guilty of a misdemeanor.

Sec. 3. NRS 244.225 is hereby amended to read as follows:

244.225 1. The board of county commissioners shall publish quarterly a statement of the *total amounts of* receipts and expenditures of the 3 months next preceding, and the *total amounts of* accounts allowed. Publications shall be made by making one insertion of the statement in a newspaper published in the county, but if no newspaper ~~be~~ is published in the county, then such publication shall be made by posting a copy of the statement at the courthouse door and at two other public places in the county. *The statement must:*

- (a) *Inform the public of the provisions of subsection 3;*
- (b) *If the county maintains an official Internet website, inform the public of where the financial statement is posted on the Internet website pursuant to subsection 2;*
- (c) *Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;*
- (d) *Provide the address of the county office or offices where the public may view the detailed financial documents; and*
- (e) *Be published for a period of at least 5 consecutive days.*

2. *If a county maintains an official Internet website, the board of county commissioners shall ~~publish~~ maintain and update quarterly on the Internet website of the county a statement of the ~~total amounts of~~ receipts*

and expenditures of the 3 months next preceding and the ~~total amounts of~~ accounts allowed. The statement must:

- (a) Inform the public of the provisions of subsection 3;*
- (b) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents; and*
- (c) Provide the address of the county office or offices where the public may view the detailed financial documents. ~~;~~ and*
- ~~*(d) Be published on the official Internet website of the county for a period of at least 5 consecutive days.*~~

3. The original and any duplicate or copy of each receipt, bill, invoice, check, warrant, voucher or other similar document that supports a transaction, the amount of which is ~~included in the total amounts~~ shown in the statement published pursuant to this section, is a public record that is available for inspection and copying by any person pursuant to the provisions of chapter 239 of NRS.

Sec. 4. NRS 354.107 is hereby amended to read as follows:

354.107 1. The Committee on Local Government Finance may adopt such regulations as are necessary for the administration of this chapter.

2. The Committee on Local Government Finance shall adopt regulations prescribing the format of the financial statement posted on the Internet website of a city or county pursuant to NRS 244.225, 268.030 and 354.210.

3. Any regulations adopted by the Committee on Local Government Finance must be adopted in the manner prescribed for state agencies in chapter 233B of NRS.

~~**[Sec. 4.]**~~ **Sec. 5. NRS 354.210 is hereby amended to read as follows:**

354.210 1. Except as provided in subsection 3, the board of county commissioners shall cause ***a statement of the total*** amount of ~~all~~ bills allowed by it ~~together with the names of the persons to whom such allowances are made and for what such allowances are made,~~ to be published in some newspaper published in the county. ***The statement must:***

- (a) Inform the public of the provisions of subsection 5;*
- (b) If the county maintains an official Internet website, inform the public of where the financial statement is posted on the Internet website pursuant to subsection 4;*
- (c) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents;*
- (d) Provide the address of the county office or offices where the public may view the detailed financial documents; and*
- (e) Be published for a period of at least 5 consecutive days.*

2. The amount paid for such publication shall not exceed the statutory rate for publication of legal notices, and the publication shall not extend beyond a single insertion.

3. Where no newspaper is published in a county, the board of county commissioners may cause to be published, in some newspaper having a

general circulation within the county, the allowances provided for in subsection 1, or shall cause the clerk of the board to post such allowances at the door of the courthouse.

4. If a county maintains an official Internet website, the board of county commissioners shall ~~publish~~ maintain and update quarterly on the official Internet website of the county a statement of the ~~total amount of~~ bills allowed by it. The statement must:

- (a) Inform the public of the provisions of subsection 5;**
- (b) Provide a telephone number the public may call for further instructions on how to obtain the detailed financial documents; and**
- (c) Provide the address of the county office or offices where the public may view the detailed financial documents . ~~and~~**
- ~~—(d) Be published on the official Internet website of the county for a period of at least 5 consecutive days.~~**

5. The original and any duplicate or copy of each bill, including, without limitation, the amount of the bill, the name of the person to whom such allowance is made and for what such allowance is made, or any other document that supports a transaction, the amount of which is ~~included in the total amount~~ shown in the statement published pursuant to this section, is a public record that is available for inspection and copying by any person pursuant to the provisions of chapter 239 of NRS.

Sec. 6. The Committee on Local Government Finance shall adopt the regulations required pursuant to subsection 2 of NRS 354.107, as amended by section 4 of this act, on or before January 15, 2012.

~~{Sec. 5.}~~ **Sec. 7. This act becomes effective upon passage and approval ~~for the purpose of adopting regulations and performing any other preparatory tasks that are necessary to carry out the provisions of this act and on January 15, 2012, for all other purposes.~~**

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 65

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 92.

The following Assembly amendment was read:

Amendment No. 593.

"SUMMARY—~~{Authorizes redevelopment agencies to expend money to improve schools.}~~ **Makes various changes relating to development.** (BDR 22-579)"

"AN ACT relating to ~~{community redevelopment.}~~ **development; revising provisions relating to the preservation of historic neighborhoods in certain regional plans;** authorizing redevelopment agencies to expend money, subject to certain limitations, to improve ~~{schools}~~ **educational facilities** located within certain cities or counties; requiring redevelopment agencies to file reports with their respective governing bodies and the

Director of the Legislative Counsel Bureau; requiring certain redevelopment agencies to set aside certain revenue from property taxes for an additional purpose; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill removes the specific requirement of addressing the preservation of historic neighborhoods in the regional plan of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County).

Section 2 of this bill requires a redevelopment agency to submit, upon adoption of a redevelopment plan for a redevelopment area, an initial report containing certain specified information regarding each redevelopment area to the legislative body of the community and to the Nevada Legislature. Each agency is also required to submit an annual report containing information for the redevelopment area for the previous fiscal year, including with respect to areas in existence on July 1, 2011. Section 7 of this bill provides for the submission of an initial report for each redevelopment area for which a redevelopment plan has been adopted before July 1, 2011.

Existing law authorizes the legislative body of a community, having recognized the need for a redevelopment agency to function in the community, to establish a redevelopment revolving fund. (NRS 279.386, 279.392, 279.396, 279.410, 279.620) Existing law also specifies the manner in which, and the permissible purposes for which, money may be expended from the redevelopment revolving fund. (NRS 279.628) ~~This~~ **Section 5 of this bill** expands the permissible purposes for which money may be expended from a redevelopment revolving fund to include use by a redevelopment agency for the improvement, with certain limitations, of ~~schools~~ **educational facilities** in a city or county with a redevelopment area within its boundaries.

Section 6 of this bill requires the redevelopment agency of a city whose population is 300,000 or more (currently the City of Las Vegas) that receives certain revenue from taxes to set aside a portion of those revenues received on or after October 1, 2011, to be used to increase, improve and preserve, in addition to the number of dwelling units in the community for low-income households, the number of educational facilities within the redevelopment area.

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

Section 1. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods ~~1, including, without limitation, historic neighborhoods,~~ and revitalization of urban areas, including, without limitation, policies that relate to the interspersation of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

(d) Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

~~{Section 1.}~~ **Sec. 2.** Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to the report required pursuant to the provisions of subsection 2, ~~{and subject to the provisions of subsection 3.}~~ for each redevelopment area for which a redevelopment plan is adopted pursuant to the provisions of NRS 279.586 on or after ~~{the effective date of this act.}~~ July 1, 2011, the agency shall, on or before the January 1 next after the adoption of the plan, ~~{the agency shall}~~ submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(2) The fiscal year during which the redevelopment plan was adopted, if such fiscal year ends before the reporting deadline;

(e) The combined overlapping tax rate of the redevelopment area;

(f) The property tax rate of the redevelopment area;

(g) The property tax revenue expected to be received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area during the first fiscal year that the agency will receive an allocation pursuant to the provisions of NRS 279.676;

(h) Copies of any memoranda of understanding into which the agency enters during the fiscal year in which the redevelopment plan was adopted; and

(i) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. On or before January 1 of each year, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area for the previous fiscal year:

(a) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area;

(b) The combined overlapping tax rate of the redevelopment area;

(c) The property tax rate of the redevelopment area;

(d) The total sum of the assessed value of the taxable property in the redevelopment area;

(e) If the amount reported pursuant to the provisions of paragraph (d) is less than the total sum of the assessed value of the taxable property in the redevelopment area for any other previous fiscal year, an explanation of the reason for the difference;

(f) Copies of any memoranda of understanding into which the agency enters;

(g) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt; and

(h) Any change to the boundary of the redevelopment area and an explanation of the reason for the change.

3. Any report for a redevelopment area submitted pursuant to the provisions of subsection 1 must be submitted with the report for the redevelopment area submitted pursuant to the provisions of subsection 2.

~~{Sec. 2.}~~ *Sec. 3.* NRS 279.382 is hereby amended to read as follows:

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, *and section ~~11~~ 2 of this act* may be cited as the Community Redevelopment Law.

~~{Sec. 3.}~~ *Sec. 4.* NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, *and section ~~11~~ 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

~~{Sec. 4.}~~ *Sec. 5.* NRS 279.628 is hereby amended to read as follows:

279.628 1. By resolution of the legislative body adopted by a majority vote any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any redevelopment area.

(b) The clearance, aiding in relocation of occupants of the site and preparation of any redevelopment area for redevelopment.

2. By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any redevelopment area.

(b) The clearance of any redevelopment area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

~~(d) [Subject to the provisions of subsection 3, to be used by the agency for]~~ **For the provision of grants to pay the costs related to the improvement of [schools] educational facilities in the community** ~~f=~~

~~3. Money paid to the agency pursuant to paragraph (d) of subsection 2 may only be in the form of grants and may not be used]~~ **, except for the cost of any regular expenses of [a school], such an educational facility.**

Sec. 6. NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population is 300,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall set aside not less than ~~15~~ **15** :

(a) Fifteen percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, **but before October 1, 2011**, to increase, improve and preserve the number of dwelling units in the community for low-income households ~~15~~ **15** ; **and**

(b) Eighteen percent of that revenue received on or after October 1, 2011, to increase, improve and preserve the number of:

(1) Dwelling units in the community for low-income households; and

(2) Educational facilities within the redevelopment area.

2. The obligation of an agency to set aside not less than 15 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations" means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, "existing obligations"

means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

4. ~~{The}~~ *From the revenue set aside by an agency pursuant to paragraph (b) of subsection 1, not more than 50 percent of that amount may be used to:*

(a) Increase, improve and preserve the number of dwelling units in the community for low-income households; or

(b) Increase, improve and preserve the number of educational facilities within the redevelopment area,

↗ unless the agency establishes that such an amount is insufficient to pay the cost of a project identified in the redevelopment plan for the redevelopment area.

5. *Except as otherwise provided in paragraph (b) of subsection 1 and subsection 4, the* agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.

~~{Sec. 5.}~~ *Sec. 7.* 1. On or before January 1, 2012, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586 ~~{H}~~ *before July 1, 2011,* the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan;

(2) The fiscal year during which the redevelopment plan was adopted;

(3) The combined overlapping tax rate of the redevelopment area;

(4) The property tax rate of the redevelopment area;

(5) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area for the fiscal year ending June 30, 2011;

(6) Copies of any memoranda of understanding into which the agency enters during the fiscal year ending June 30, 2011; and

(7) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. As used in this section:

- (a) "Agency" has the meaning ascribed to it in NRS 279.386.
- (b) "Legislative body" has the meaning ascribed to it in NRS 279.396.
- (c) "Redevelopment area" has the meaning ascribed to it in NRS 279.410.

~~{Sec. 6.}~~ **Sec. 8.** This act becomes effective ~~upon passage and approval,~~ **on July 1, 2011.**

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 92

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 110.

The following Assembly amendment was read:

Amendment No. 594.

"SUMMARY—~~{Requires the establishment of a}~~ **Revises provisions governing the issuance of** business ~~{license to engage in contracting}~~ **licenses** in certain counties and cities in this State. (BDR 20-820)"

"AN ACT relating to businesses; requiring a board of county commissioners and the governing bodies of certain incorporated cities to enter into an agreement to establish a business license to allow a licensed contractor to engage in the business of contracting in the county and cities under certain circumstances; **authorizing a board of county commissioners and the governing bodies of certain other incorporated cities to enter into such an agreement; revising the circumstances for obtaining a county or city business license; revising certain provisions for the issuance of a license for a food establishment;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes counties, cities and towns to issue business licenses and permits to operate a business within the limits of the county, city or town and to collect taxes on those licenses. (NRS 244.335, 266.355, 268.095, 269.170) **Sections 1 and 2** of this bill require the board of county commissioners in a county whose population is 700,000 or more (currently Clark County) and the governing body of each incorporated city whose population is 150,000 or more located in such a county (currently Henderson, Las Vegas and North Las Vegas) to enter into an agreement with each other for the establishment of a business license to allow a licensed contractor to engage in the business of contracting in the county and cities if the contractor: (1) has a place of business in an unincorporated area of the county; or (2) does not have a place of business in the county. **Sections 1 and 2 also require such a board of county commissioners to enter into similar agreements with the governing body of each incorporated city whose population is less than 150,000 located in the county (currently Boulder City and Mesquite) who chooses to enter into such an agreement.** Sections 1 and 2 further require the board of county

commissioners and governing body of each **such** incorporated city to establish by ordinance a system for issuing the business license which sets forth the requirements for obtaining the license and the fees for the issuance and renewal of the license.

Existing law requires an applicant for a county or city business license to sign an affidavit to affirm that he or she has complied with the business licensing provisions of this State. (NRS 244.335, 268.095) Sections 1.5 and 3 of this bill provide for an alternative procedure for an applicant to prove compliance by providing his or her entity number assigned by the Secretary of State for investigation by the city council or board of county commissioners to whom he or she is applying. Existing law also requires an applicant for a city or county business license to sign an affidavit affirming that the business maintains certain insurance requirements. (NRS 244.33505, 268.0955) Sections 1.7 and 3.5 of this bill allow an applicant to attest to his or her compliance with these provisions instead of providing a physical signature if the applicant submits his or her application electronically.

Existing law prohibits a city, county or other licensing authority from issuing a license for the operation of a food establishment until the owner has obtained the required permit by the health authority. (NRS 446.877) Section 3.7 of this bill authorizes the board of county commissioners or the governing body of an incorporated city to issue a license to a food establishment contingent upon the owner's obtaining the required health permit.

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

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

1. The board of county commissioners in each county whose population is 700,000 or more shall enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the governing body of each city whose population is 150,000 or more located within the county and with the governing body of each city located within the county whose population is less than 150,000 who chooses to enter into such an agreement for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.

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

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

of contracting within the county and each city that entered into the agreement ~~for~~ pursuant to subsection 1 and in which the person intends to conduct business.

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. *As used in this subsection, "professional" means a person who:*

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

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

5. The county license board shall provide upon request an application for a state business license pursuant to chapter 76 of NRS. No license to engage in any type of business may be granted unless the applicant for the license ~~signs~~ :

(a) Signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS. ~~The county license board shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:~~

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

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

~~*—5.1 ; or*~~

(b) Provides to the county license board the entity number of the applicant assigned by the Secretary of State which the county may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of chapter 76 of NRS.

6. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license ~~presents~~ :

(a) Presents written evidence that:

~~*(a) (1) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or*~~

~~*(b) (2) Another regulatory agency of the State has issued or will issue a license required for this activity.*~~

~~*—6.1 ; or*~~

(b) Provides to the county license board the entity number of the applicant assigned by the Secretary of State which the county may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of paragraph (a).

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

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

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

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

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

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

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

~~77~~ 8. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 244.3357, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or Secretary of State for the exchange of information concerning taxpayers.

Sec. 1.7. NRS 244.33505 is hereby amended to read as follows:

244.33505 1. In a county in which a license to engage in a business is required, the board of county commissioners shall not issue such a license unless the applicant for the license ~~signs~~ :

(a) Signs an affidavit affirming that the business:

~~((a))~~ **(1)** Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;

~~((b))~~ **(2)** Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;

~~((c))~~ (3) Is a member of an association of self-insured public or private employers; or

~~((d))~~ (4) Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS ~~11~~; or

(b) If the applicant submits his or her application electronically, attests to his or her compliance with the provisions of paragraph (a).

2. In a county in which such a license is not required, the board of county commissioners shall require a business, when applying for a post office box, to submit to the board the affidavit or attestation required by subsection 1.

3. Each board of county commissioners shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit or attestation required by subsections 1 and 2.

4. Upon receiving an affidavit or attestation required by this section, a board of county commissioners shall provide the owner of the business with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace, in accordance with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

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

1. The governing body of each incorporated city whose population is 150,000 or more and which is located in a county whose population is 700,000 or more, whether organized under general law or special charter, shall enter into an agreement in accordance with the provisions of NRS 277.080 to 277.180, inclusive, with the board of county commissioners of the county in which the city is located ~~and~~, with the governing body of every other city located within the county whose population is 150,000 or more and with the governing body of each city located within the county whose population is less than 150,000 who chooses to enter into such an agreement for the establishment of a business license to authorize a person who is licensed as a contractor pursuant to chapter 624 of NRS to engage in the business of contracting within the county and each of those cities.

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

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

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

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

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

- (a) The person maintains only one place of business within the county and the place of business is located within the jurisdiction of the city;*
- (b) The person maintains more than one place of business within the county and each of those places of business is located within the jurisdiction of the city; or*
- (c) The person does not maintain any place of business within the county.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, "professional" means a person who:

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

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

5. The city licensing agency shall provide upon request an application for a state business license pursuant to chapter 76 of NRS. No license to engage in any type of business may be granted unless the applicant for the license ~~signs~~ :

(a) Signs an affidavit affirming that the business has complied with the provisions of chapter 76 of NRS. ~~The city licensing agency shall provide upon request an application for a business license pursuant to chapter 76 of NRS. As used in this subsection, "professional" means a person who:~~

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

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

~~—5.1 ; or~~

(b) Provides to the city licensing agency the entity number of the applicant assigned by the Secretary of State which the city may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of chapter 76 of NRS.

6. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license ~~(presents)~~ :

(a) Presents written evidence that:

~~1(a) (1)~~ **(1)** The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

~~1(b) (2)~~ **(2)** Another regulatory agency of the State has issued or will issue a license required for this activity. ~~1~~

~~—6.1 ; or~~

(b) Provides to the city licensing agency the entity number of the applicant assigned by the Secretary of State which the city may use to validate that the applicant is currently in good standing with the State and has complied with the provisions of paragraph (a).

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

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

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

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

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

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

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

~~17.1~~ **8.** The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 239.0115 and 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the

payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation or the Secretary of State for the exchange of information concerning taxpayers.

~~18.1~~ **9.** The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a separate method of accomplishing its objectives, and not an exclusive one.

Sec. 3.5. NRS 268.0955 is hereby amended to read as follows:

268.0955 1. In an incorporated city in which a license to engage in a business is required, the city council or other governing body of the city shall not issue such a license unless the applicant for the license ~~(signs)~~ :

(a) Signs an affidavit affirming that the business:

~~1(a)~~ **(1)** Has received coverage by a private carrier as required pursuant to chapters 616A to 616D, inclusive, and chapter 617 of NRS;

~~1(b)~~ **(2)** Maintains a valid certificate of self-insurance pursuant to chapters 616A to 616D, inclusive, of NRS;

~~1(c)~~ **(3)** Is a member of an association of self-insured public or private employers; or

~~1(d)~~ **(4)** Is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS. ~~1.1~~ ; **or**

(b) If the applicant submits his or her application electronically, attests to his or her compliance with the provisions of paragraph (a).

2. In an incorporated city in which such a license is not required, the city council or other governing body of the city shall require a business, when applying for a post office box, to submit to the governing body the affidavit **or attestation** required by subsection 1.

3. Each city council or other governing body of an incorporated city shall submit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry monthly a list of the names of those businesses which have submitted an affidavit **or attestation** required by subsections 1 and 2.

4. Upon receiving an affidavit **or attestation** required by this section, the city council or other governing body of an incorporated city shall provide the applicant with a document setting forth the rights and responsibilities of employers and employees to promote safety in the workplace in accordance

with regulations adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.376.

Sec. 3.7. NRS 446.877 is hereby amended to read as follows:

446.877 ~~{No}~~

1. Except as otherwise provided in subsection 2, no license under any license ordinance of ~~{a city, county or other}~~ **any** licensing authority ~~{shall}~~ **may** be issued for the operation of a food establishment to any person owning or operating such food establishment unless the permit required by this chapter has first been granted by the health authority.

2. A board of county commissioners or the city council or other governing body of an incorporated city, whether organized under general law or special charter, may issue a license to operate a food establishment to any person owning or operating the food establishment contingent upon the person's obtaining the permit required by this chapter from the health authority.

Sec. 4. (Deleted by amendment.)

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

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

2. Adopt the ordinances required pursuant to section 1 and 2 of this act,
 ➤ on or before 1 year after the effective date of this act.

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

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 110

Motion carried by a two-thirds majority.

Bill ordered enrolled.

Senate Bill No. 251.

The following Assembly amendment was read:

Amendment No. 805.

"SUMMARY—Creates the ~~{Nevada}~~ Sunset **Subcommittee of the Legislative** Commission to evaluate certain governmental programs and services. (BDR 18-745)"

"AN ACT relating to ~~{commissions;}~~ **governmental administration; prohibiting the appointment of a person to a board, commission or similar body if the person is serving on another board, commission or similar body;** creating the ~~{Nevada}~~ Sunset **Subcommittee of the Legislative** Commission; providing for its membership; requiring the ~~{Commission}~~ **Sunset Subcommittee** to ~~{evaluate the necessity and efficacy of all governmental programs and services provided}~~ **review certain boards and commissions** in this State ~~{,}~~ **to determine the need for the termination, consolidation, modification or continuation of those boards and commissions;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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

Existing law sets forth various requirements for serving on boards, commissions and similar bodies, including residency requirements, the procedure for filling vacancies and the qualifications and length of terms for members. (NRS 232A.020) Section 1 of this bill prohibits the Governor from appointing a person to a board, commission or similar body if the person is a member of another board, commission or similar body.

Existing law establishes the Legislative Commission and provides for its powers and duties, which consist of, in part, investigating and inquiring into subjects upon which the Legislature may act by the enactment or amendment of statutes, governmental problems, important issues of public policy or questions of statewide interest. (NRS 218E.150, 218E.175) Existing law also provides for certain standing subcommittees of the Legislative Commission to carry out ongoing duties, such as the Audit Subcommittee and the Budget Subcommittee. (NRS 218E.240, 218E.255) Finally, existing law requires the Legislative Commission to conduct reviews of existing agencies to determine whether each agency should be terminated, consolidated with another agency or continued. (NRS 232B.010-232B.100)

Section 8 of this bill creates the Sunset Subcommittee of the Legislative Commission and sets forth its membership. Section 9 of this bill specifies the Sunset Subcommittee's primary duties, which are: (1) to conduct reviews of all boards and commissions in this State which are not provided for in the Nevada Constitution or established by an executive order of the Governor and determine whether each board or commission should be terminated, modified, consolidated with another agency or continued; (2) to make recommendations for improving the boards or commissions which are to be modified, consolidated or continued; and (3) to determine whether any tax exemptions, abatements or money set aside for a board or commission should be terminated, modified or continued. Section 9 also requires the Sunset

Subcommittee to assess each board or commission reviewed for the cost of conducting the review.

Section 10 of this bill requires each board and commission to submit certain information about itself and how it operates to the Sunset Subcommittee and authorizes the Sunset Subcommittee to direct the Legislative Counsel Bureau to assist the Sunset Subcommittee in investigating, reviewing and analyzing the information submitted. Section 11 of this bill requires the Sunset Subcommittee to hold public hearings to receive commentary on whether a board or commission should be terminated, modified, consolidated or continued. Section 12 of this bill requires the Sunset Subcommittee to make recommendations for direct legislative action to carry out its recommendations regarding the termination, modification, consolidation or continuation of a board or commission.

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

Section 1. NRS 232A.020 is hereby amended to read as follows:

232A.020 1. Except as otherwise provided in this section, a person appointed to a new term or to fill a vacancy on a board, commission or similar body by the Governor must have, in accordance with the provisions of NRS 281.050, actually, as opposed to constructively, resided, for the 6 months immediately preceding the date of the appointment:

(a) In this State; and

(b) If current residency in a particular county, district, ward, subdistrict or any other unit is prescribed by the provisions of law that govern the position, also in that county, district, ward, subdistrict or other unit.

2. After the Governor's initial appointments of members to boards, commissions or similar bodies, all such members shall hold office for terms of 3 years or until their successors have been appointed and have qualified.

3. A vacancy on a board, commission or similar body occurs when a member dies, resigns, becomes ineligible to hold office or is absent from the State for a period of 6 consecutive months.

4. Any vacancy must be filled by the Governor for the remainder of the unexpired term.

5. A member appointed to a board, commission or similar body as a representative of the general public must be a person who:

(a) Has an interest in and a knowledge of the subject matter which is regulated by the board, commission or similar body; and

(b) Does not have a pecuniary interest in any matter which is within the jurisdiction of the board, commission or similar body.

6. **The Governor shall not appoint a person to a board, commission or similar body if the person is a member of any other board, commission or similar body.**

7. The provisions of subsection 1 do not apply if:

(a) A requirement of law concerning another characteristic or status that a member must possess, including, without limitation, membership in another organization, would make it impossible to fulfill the provisions of subsection 1; or

(b) The membership of the particular board, commission or similar body includes residents of another state and the provisions of subsection 1 would conflict with a requirement that applies to all members of that body.

~~{Section 1.}~~ *Sec. 1.5.* ~~{Title 18}~~ Chapter 232B of NRS is hereby amended by adding thereto ~~{a new chapter to consist of}~~ the provisions set forth as sections ~~{2 to 6,}~~ 8 to 12, inclusive, of this act.

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. 1. The Sunset Subcommittee of the Legislative Commission, consisting of nine members, is hereby created. The membership of the Sunset Subcommittee consists of:

(a) Three members of the Legislature appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party;

(b) Three members of the Legislature appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party; and

(c) Three members of the general public appointed by the Chair of the Legislative Commission from among the names of nominees submitted by the Governor pursuant to subsection 2.

2. The Governor shall, at least 30 days before the beginning of the term of any member appointed pursuant to paragraph (c) of subsection 1, or within 30 days after such a position on the Sunset Subcommittee becomes vacant, submit to the Legislative Commission the names of at least three persons qualified for membership on the Sunset Subcommittee. The Chair of the Legislative Commission shall appoint a new member or fill the vacancy from the list, or request a new list. The Chair of the Legislative Commission may appoint any qualified person who is a resident of this State to a position described in paragraph (c) of subsection 1.

3. Each member of the Sunset Subcommittee serves at the pleasure of the appointing authority.

4. The members of the Sunset Subcommittee 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. If a vacancy occurs in the office of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

5. The membership of any member of the Sunset Subcommittee who is a Legislator and who is not a candidate for reelection or who is defeated for reelection terminates on the day next after the general election.

6. A vacancy on the Sunset Subcommittee must be filled in the same manner as the original appointment.

7. The Sunset Subcommittee shall meet at the times and places specified by a call of the Chair. Five members of the Sunset Subcommittee constitute a quorum, and a quorum may exercise any power or authority conferred on the Sunset Subcommittee.

8. For each day or portion of a day during which a member of the Sunset Subcommittee who is a Legislator attends a meeting of the Sunset Subcommittee or is otherwise engaged in the business of the Sunset Subcommittee, except during a regular or special session of the Legislature, the Legislator is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers generally; and

(c) Travel expenses provided pursuant to NRS 218A.655.

↪ The compensation, per diem allowances and travel expenses of the members of the Sunset Subcommittee who are Legislators must be paid from the Legislative Fund.

9. While engaged in the business of the Sunset Subcommittee, the members of the Subcommittee who are not Legislators are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 9. 1. The Sunset Subcommittee of the Legislative Commission shall conduct a review of each board and commission in this State which is not provided for in the Nevada Constitution or established by an executive order of the Governor to determine whether the board or commission should be terminated, modified, consolidated with another board or commission or continued. Such a review must include, without limitation:

(a) An evaluation of the major policies and programs of the board or commission, including, without limitation, an examination of other programs or services offered in this State to determine if any other provided programs or services duplicate those offered by the board or commission;

(b) Any recommendations for improvements in the policies and programs offered by the board or commission; and

(c) A determination of whether any statutory tax exemptions, abatements or money set aside to be provided to the board or commission should be terminated, modified or continued.

2. The Sunset Subcommittee shall review:

(a) Not less than 20 boards and commissions specified in subsection 1 each year; and

(b) Each of those boards and commissions not less than once every 10 years.

3. For each review of a board or commission that the Sunset Subcommittee conducts, the Sunset Subcommittee shall submit a written assessment to the board or commission setting forth the costs of the review. In determining the amount of an assessment pursuant to this subsection, the Sunset Subcommittee shall consider, based upon the information provided by the board or commission pursuant to section 10 of this act, whether any additional analysis or evaluation is required to review the board or commission because of the specialized nature of the board or commission. As soon as practicable after a board or commission receives a written assessment pursuant to this subsection, the board or commission shall pay the amount set forth in the written assessment to the Sunset Subcommittee.

4. Any action taken by the Sunset Subcommittee concerning a board or commission pursuant to sections 8 to 12, inclusive, of this act is in addition or supplemental to any action taken by the Legislative Commission pursuant to NRS 232B.010 to 232B.100, inclusive.

Sec. 10. 1. Each board and commission subject to review by the Sunset Subcommittee of the Legislative Commission shall submit information to the Sunset Subcommittee on a form prescribed by the Sunset Subcommittee. The information must include, without limitation:

- (a) The name of the board or commission;
- (b) The name of each member of the board or commission;
- (c) The address of the Internet website established and maintained by the board or commission, if any;
- (d) The name and contact information of the executive director of the board or commission, if any;
- (e) A list of the members of the staff of the board or commission;
- (f) The authority by which the board or commission was created;
- (g) The governing structure of the board or commission, including, without limitation, information concerning the method, terms, qualifications and conditions of appointment and removal of the members of the board or commission;
- (h) The duties of the board or commission;
- (i) The operating budget of the board or commission;
- (j) A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits the form required by this subsection, including the balances of any fund or account maintained by or on behalf of the board or commission;
- (k) The most recent audit conducted of the board or commission, if any;
- (l) The dates of the immediately preceding six meetings held by the board or commission;

(m) A statement of the objectives and programs of the board or commission;

(n) A conclusion concerning the effectiveness of the objectives and programs of the board or commission;

(o) Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs; and

(p) Such other information as the Sunset Subcommittee may require.

2. The Sunset Subcommittee may direct the Legislative Counsel Bureau to assist in its research, investigations, review and analysis of the information submitted by each board and commission pursuant to subsection 1.

Sec. 11. 1. The Sunset Subcommittee of the Legislative Commission shall conduct public hearings for the purpose of obtaining comments on, and may require the Legislative Counsel Bureau to submit reports on, the need for the termination, modification, consolidation or continued operation of a board or commission.

2. The Sunset Subcommittee shall consider any report submitted to it by the Legislative Counsel Bureau.

3. A board or commission has the burden of proving that there is a public need for its continued existence.

Sec. 12. 1. If the Sunset Subcommittee of the Legislative Commission determines to recommend the termination of a board or commission, its recommendation must include suggestions for appropriate direct legislative action, if any, which is made necessary or desirable by the termination of the board or commission.

2. If the Sunset Subcommittee determines to recommend the consolidation, modification or continuation of a board or commission, its recommendation must include suggestions for appropriate direct legislative action, if any, which would make the operation of the board or commission or its successor more efficient or effective.

3. On or before June 30, 2012, the Sunset Subcommittee shall make all its initial recommendations pursuant to this section, if any. The Sunset Subcommittee shall make all subsequent recommendations pursuant to this section, if any, on or before June 30 of each even-numbered year occurring thereafter.

Sec. 13. NRS 232B.010 is hereby amended to read as follows:

232B.010 As used in ~~this chapter,~~ **NRS 232B.010 to 232B.100, inclusive,** unless the context otherwise requires, "agency" means any public agency which the Legislature has designated to be the subject of a review by the Legislative Commission.

Sec. 14. NRS 232B.080 is hereby amended to read as follows:

232B.080 1. The Legislative Commission shall conduct public hearings for the purpose of obtaining comments on, and may require the Legislative Counsel Bureau to submit reports on, the need for the continued operation of an agency, and its efficiency and effectiveness.

2. At any hearing held ~~under this chapter,~~ pursuant to NRS 232B.010 to 232B.100, inclusive, information may be presented by:

- (a) Members of the general public;
- (b) Any person who is regulated by the agency; and
- (c) Representatives of the agency.

3. The Legislative Commission shall consider any report submitted to it by the Legislative Counsel Bureau.

4. An agency has the burden of proving that there is a public need for its continued existence or regulatory function.

Sec. 15. 1. On or before August 1, 2011, the Governor shall submit to the Legislative Commission the names of at least three nominees who are qualified for membership on the Sunset Subcommittee of the Legislative Commission pursuant to subsection 2 of section 8 of this act.

2. On or before September 1, 2011:

(a) The Majority Leader of the Senate shall appoint three members of the Sunset Subcommittee pursuant to paragraph (a) of subsection 1 of section 8 of this act.

(b) The Speaker of the Assembly shall appoint three members of the Sunset Subcommittee pursuant to paragraph (b) of subsection 1 of section 8 of this act.

(c) The Chair of the Legislative Commission shall appoint three members of the general public from among the names of the nominees submitted by the Governor pursuant to subsection 1.

Sec. 15.5. 1. If on the effective date of this act any person is currently serving as a member of more than one board, commission or similar body pursuant to an appointment by the Governor, the person shall, on or before December 31, 2011, resign from all but one such board, commission or similar body.

2. A vacancy created by such a resignation must be filled in the manner prescribed by the relevant statute or by NRS 232A.020, if no relevant statute applies, to fill a vacancy on the board, commission or similar body.

~~{Sec. 8.}~~ **Sec. 16. 1. This section and section 15.5 of this act become effective upon passage and approval.**

2. Sections 1, 1.5 and 8 to 15, inclusive, of this act {becomes} become effective on July 1, 2011.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 251.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 262.

The following Assembly amendment was read:

Amendment No. 844.

"SUMMARY—Provides for the incorporation of the City of Laughlin contingent upon certain conditions. (BDR S-125)"

"AN ACT providing a charter for the City of Laughlin, in Clark County, Nevada; providing for an election to be held on the question of incorporation; making the incorporation of the City contingent upon a determination by the Board of County Commissioners of Clark County or the Legislative Commission and approval of this act by qualified electors of the City; providing penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

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

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

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

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

ARTICLE I

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

Section 1.010 Preamble: Legislative intent; powers.

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

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

Sec. 1.020 Incorporation of City.

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

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

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

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

2. *Excepting therefrom the following described land:*

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

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

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

(1) Parcel 1. The South Half (S 1/2) of the South Half of Section 12 of Township 32 South, Range 66 East, M.D.M., Clark County, Nevada, excepting therefrom State Route 163 recorded in Book 920722 as Instrument 00564, Official Records of Clark County, Nevada, together with Parcel 1 of File 70 of Parcel Maps at Page 20, Official Records of Clark County Nevada, also together with Civic Way recorded in Book 910906 as Instrument Number 00680, Official Records of Clark County, Nevada, lying within the South Half (S 1/2) of the South Half (S 1/2) of said Section 12.

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

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

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

Sec. 1.050 Form of government.

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

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

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

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

1. The titles or leadlines which are applied to the articles and sections of this Charter are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provision of this Charter.

2. The singular number includes the plural number, and the plural includes the singular.

3. The present tense includes the future tense.

ARTICLE II

CITY COUNCIL

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

Sec. 2.020 Qualifications.

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

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

Sec. 2.030 Salaries.

1. For the first 2 years after election of the first members of the Council after adoption of this Charter, each member of the Council shall

receive as compensation for his or her services as such a monthly salary of \$125.00, and the member elected to fill the Office of Mayor shall receive the additional amount of \$25.00 for each month said member shall fill the Office of Mayor.

2. After the period specified in subsection 1 ~~of~~ and upon recommendation from the Charter Committee established pursuant to section 9.100 of Article IX, the Council may determine the annual salaries of the Mayor and Council members by ordinance. The Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Council members during the term for which they have been elected or appointed.

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

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

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

Sec. 2.040 Mayor; Mayor Pro Tem; duties.

1. The Mayor shall:

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

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

- (a) Hold such office and title, without additional compensation, for the period of 1 year;*
- (b) Perform the duties of the Mayor during the absence or disability of the Mayor; and*
- (c) Assume the position of Mayor, if that office becomes vacant, until the next regular election.*

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

- 1. Establish other administrative departments and distribute the work of divisions.*
- 2. Adopt the budget of the City.*
- 3. Adopt civil service rules and regulations.*

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

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

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

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

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

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

Sec. 2.070 Council not to interfere in removals.

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

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

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

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

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

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

Sec. 2.100 Induction of Council into office; meetings of Council.

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

2. Special meetings may be held on a call of the Mayor or by a majority of the Council. Reasonable effort must be made to give notice of the special meeting to each Council member, the Mayor, City Clerk, City Attorney and City Manager. Only that business which was stated in the call of the special meeting may be discussed.

3. Except as otherwise provided in NRS 241.0355, a majority of all Council members constitutes a quorum to do business, but a lesser number may meet and recess from time to time, and compel the attendance of the absent Council members.

4. No meeting of the Council may be held for the purpose of conducting or discussing City business except as provided in this section.

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

~~—Sec. 2.120] Rules of procedure.~~

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

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

~~Sec. 2.130]~~ 2.120 Investigations by Council.

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

administer oaths and affirmations in any investigation or proceeding pending before the Council.

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

Sec. ~~2.140~~ 2.130 Council's power to make and pass ordinances, resolutions.

1. The Council shall have the power to make and pass all ordinances, resolutions and orders, not repugnant to the Constitution of the United States or of the State of Nevada or to the provisions of this Charter, necessary for the municipal government and the management of the city affairs, for the execution of all powers vested in the City, and for making effective the provisions of this Charter.

2. The Council shall have the power to enforce obedience to its ordinances by such fines, imprisonments or other penalties as the Council may deem proper, but the punishment for any offense shall not be greater than the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time such offense occurred.

3. The Council may enact and enforce such local police ordinances as are not in conflict with the general laws of the State of Nevada.

4. Any offense made a misdemeanor by the laws of the State of Nevada shall also be deemed to be a misdemeanor in the City of Laughlin whenever such offense is committed within the city limits.

Sec. ~~2.150~~ 2.140 Voting on ordinances and resolutions.

1. No ordinance or resolution shall be passed without receiving the affirmative votes of at least three members of the Council.

2. The ayes and noes shall be taken upon the passage of all ordinances and resolutions and entered upon the journal of the proceedings of the Council. Upon the request of any member of the Council, the ayes and noes shall be taken and recorded upon any vote. All members of the Council present at any meeting shall vote, except ~~upon~~ ;

(a) Upon matters in which they have financial interest ~~for when~~ ;

(b) When they are reviewing an appeal from a decision of a city commission, before which they have appeared as an advocate for or an adversary against the decision being appealed ~~for~~ ; or

(c) When they are required to abstain from voting pursuant to the provisions of NRS 281A.420.

Sec. ~~2.160~~ 2.150 Enactment of ordinances; subject matter, titles.

1. No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof must be reenacted as amended, and no ordinance shall be revised or amended by reference only to its title.

2. Every ordinance, except those revising the city ordinances, shall embrace but one subject and matters necessarily connected therewith and

pertaining thereto, and the subject shall be clearly indicated in the title, and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.

Sec. ~~2.170~~ 2.160 Introduction of ordinances; notice; final action; publication.

1. The style of ordinances must be as follows: "The Council of the City of Laughlin does ordain." All proposed ordinances, when first proposed, must be read by title to the Council, after which an adequate number of copies of the ordinance must be deposited with the City Clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the City, if any, otherwise in some newspaper published in the County which has a general circulation in the City, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The Council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole Council, final action may be taken immediately or at a special meeting called for that purpose.

2. After final adoption, the ordinance must be signed by the Mayor, and, together with the votes cast on it, must be:

(a) Published by title, together with an adequate summary including any amendments, once in a newspaper published in the City, if any, otherwise in a newspaper published in the County and having a general circulation in the City; and

(b) Posted in full in the city hall.

3. Except as otherwise provided in subsections 4 and 5, all ordinances become effective 20 days after publication.

4. Emergency ordinances having for their purpose the immediate preservation of the public peace, health or safety, containing a declaration of and the facts constituting its urgency and passed by a four-fifths vote of the Council, and ordinances calling or otherwise relating to a municipal election, become effective on the date specified therein.

5. All ordinances having for their purpose the lease or sale of real estate owned by the City, except city-owned subdivision or cemetery lots, may be effective not fewer than 5 days after the publication.

Sec. ~~2.180~~ 2.170 Adoption of specialized, uniform codes. An ordinance adopting any specialized or uniform building, plumbing or electrical code or codes, printed in book or pamphlet form or any other specialized or uniform code or codes of any nature whatsoever so printed, may adopt such code, or any portion thereof, with such changes as may be necessary to make the same applicable to conditions in the City, and with such other changes as may be desirable, by reference thereto, without the

necessity of reading the same at length. Such code, upon adoption, need not be published if an adequate number of copies of such code, either typewritten or printed, with such changes, if any, have been filed for use and examination by the public in the Office of the City Clerk at least 1 week before the passage of the ordinance adopting the code, or any amendment thereto. Notice of such filing shall be given in accordance with the provisions of subsection 2 of section ~~2.170~~ 2.160.

Sec. ~~2.190~~ 2.180 Codification of ordinances; publication of Code.

1. The Council shall have the power to codify and publish a code of its municipal ordinances in the form of a Municipal Code, which Code may, at the election of the Council, have incorporated therein a copy of this Charter and such additional data as the Council may prescribe.

2. The ordinances in the Code shall be arranged in appropriate chapters, articles and sections, excluding the titles, enacting clauses, attestations and other formal parts.

3. The codification shall be adopted by an ordinance which shall not contain any substantive changes, modifications or alterations of existing ordinances, and the only title necessary for the ordinance shall be "An ordinance for codifying and compiling the general ordinances of the City of Laughlin."

4. The codification may, by ordinance regularly passed, adopted and published, be amended or extended.

Sec. ~~2.200~~ 2.190 Independent annual audit. Before the end of each fiscal year, the Council shall designate qualified accountants who, as of the end of the fiscal year, shall make a complete and independent audit of accounts and other evidences of financial transactions of the city government and shall submit their report to the Council and to the City Manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but, within specifications approved by the Council, shall postaudit the books and documents kept by the Department of Finance and any separate or subordinate accounts kept by any other office, department or agency of the city government.

ARTICLE III

CITY MANAGER

Sec. 3.010 Appointment and qualifications.

1. The Council shall appoint a City Manager by a majority vote who by virtue of his or her position as City Manager shall be an officer of the City and who shall have the powers and shall perform the duties in this Charter provided. No member of the Council shall receive such appointment during the term for which he or she shall have been elected, nor within 1 year after the expiration of his or her term.

2. The City Manager shall be chosen on the basis of his or her executive and administrative qualifications. The City Manager shall be

paid a salary commensurate with his or her responsibilities as Chief Administrative Officer of the City as set by resolution of the Council.

3. The Council shall appoint the City Manager for an indefinite term and may remove him or her in accordance with the procedures set forth in section 3.020.

Sec. 3.020 Removal.

1. Before removal of the City Manager may become effective, the Council must adopt, by the affirmative votes of at least four members, a resolution that must state the reasons for the proposed removal of the City Manager and may provide for the suspension of the City Manager from duty, but shall in any case cause to be paid him or her forthwith any unpaid balance of his or her salary and his or her salary for the next calendar month following the date of adoption of the resolution. A copy of the resolution must be delivered promptly to the City Manager.

2. The City Manager may reply in writing, and any member of the Council may request a public hearing, which, if requested, shall be held not earlier than 20 days or later than 30 days after the filing of such request. After such public hearing, if one be requested, and after full consideration, the Council may remove the City Manager by motion adopted by the affirmative votes of at least four members of the Council.

Sec. 3.030 Powers and duties. The City Manager shall be the Chief Administrative Officer and the Head of the Administrative Branch of the city government. The City Manager shall be responsible to and under the direction of the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities, and duties, the City Manager shall have the power and be required to:

1. Subject to the civil service rules and regulations adopted by the Council, and with the approval of the Council, appoint all department heads and officers of the City except those officers the power of appointment of whom is vested in the Council and as otherwise provided in this Charter;

2. Subject to the civil service rules and regulations adopted by the Council and ordinances adopted pursuant thereto, pass upon and approve all proposed appointments and removals of subordinate employees, by all officers and heads of offices, agencies and departments;

3. Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption;

4. Prepare and submit to the Council at the end of the fiscal year a complete report of the finances and administrative activities of the City for the preceding fiscal year;

5. Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem to him or her desirable;

6. *Keep himself or herself informed of the activities of the several agencies, offices and departments of the City and see to the proper administration of their affairs and the efficient conduct of their business;*

7. *Be vigilant and active in causing all provisions of the law to be executed and enforced;*

8. *Perform all such duties as may be prescribed by this Charter or required of him or her by the Council, not inconsistent with this Charter;*

9. *Submit a monthly report to the Council covering significant activities of the city agencies, offices and departments under his or her supervision and any significant changes in administrative rules and procedures promulgated by him or her; and*

10. *Submit special reports in writing to the Council in answer to any requests for information filed with the City Manager by a member of the Council.*

Sec. 3.040 Seat at Council table. The City Manager shall be accorded a seat at the Council table and shall be entitled to participate in the deliberations of the Council, but shall not have a vote. The City Manager shall attend all regular and special meetings of the Council unless physically unable to do so or unless his or her absence has received prior approval by a majority of the Council.

Sec. 3.050 Absence, disability. To perform his or her duties during his or her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk one of the other officers or department heads of the City to serve as acting City Manager during such temporary absence or disability. Such designation shall be subject to change thereof by the Council. In the event of the failure of the City Manager to make such a designation, the Council may by resolution appoint an officer or department head of the City to perform the duties of the City Manager until he or she shall be prepared to resume the duties of office.

ARTICLE IV

OFFICERS AND EMPLOYEES

Sec. 4.010 City administrative organization.

1. *The Council may provide by ordinance not inconsistent with this Charter for the organization, conduct and operation of the several offices, departments and other agencies of the City as established by this Charter, for the creation of additional departments, divisions, offices and agencies and for their alteration or abolition, for their assignment and reassignment to departments, and for the number, titles, qualifications, powers, duties and compensation of all officers and employees.*

2. *The Council by ordinance may assign additional functions or duties to offices, departments or other agencies established by this Charter, but, except as otherwise provided in subsection 3, shall not discontinue or assign to any other office, department or other agency any function or duty assigned by this Charter to a particular office, department or agency. No office provided in this Charter, to be filled by appointment by the City*

Manager, shall be combined with an office provided in this Charter to be filled by appointment by the Council.

3. Notwithstanding the foregoing, the Council may transfer or consolidate functions of the city government to or with appropriate functions of the state or county government and, in case of any such transfer or consolidation, the provisions of this Charter providing for the functions of the city government so transferred or consolidated, shall be deemed suspended during the continuance of such transfer or consolidation, to the extent that such suspension is made necessary or convenient and is set forth in the ordinance establishing such transfer or consolidation. Any such transfer or consolidation may be repealed by ordinance.

4. Subject to the civil service rules and regulations adopted by the Council and section 3.020 of Article III, all officers and department heads of the City, except the City Attorney, Municipal Judge and the City Clerk, shall be appointed by the City Manager and shall thereafter serve at the pleasure of the City Manager.

5. Officers of the City appointed by the Council shall be required to reside within the city limits within 3 months of appointment. Employees of the City shall be required to live within a 50-mile radius of the City within 6 months of employment.

Sec. 4.020 Officers appointed by the Council.

1. In addition to the City Manager, the Council shall appoint the City Attorney and the Municipal Judge, if required pursuant to section 5.020 of Article V, who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of at least four members of the Council.

2. Subject to the provisions of this Charter and rules and regulations adopted by the Council, the Council shall appoint the City Clerk who shall serve at the pleasure of the Council and may be removed by motion of the Council adopted by the affirmative votes of three members of the Council.

3. The appointments of city officers pursuant to subsections 1 and 2 shall be for indefinite terms, and each such officer shall receive such compensation and other benefits as may be determined by resolution of the Council from time to time.

4. Any city officer may be temporarily suspended with full pay at any time by a majority vote of the Council, but no city officer may be removed from office unless he or she has first been given an opportunity for a hearing before the Council, at his or her request, with not less than 7 days' prior notice of the time and place of the hearing. Such hearing may be either public or private, as requested by the officer, and at the hearing, the officer may be assisted by his or her own legal counsel. Any action of the Council following such hearing shall be considered final and conclusive. If a city officer is so removed, the Council will appoint a person as a temporary replacement to perform the duties of the removed officer, and

will appoint a qualified person as a permanent replacement officer as soon as practicable.

5. No person shall be appointed as a city officer who is a grandparent, parent, uncle, aunt, brother, sister, nephew, niece, child or grandchild, by birth, marriage or adoption, of a city officer, employee or Council member at the time of appointment.

Sec. 4.030 City Clerk powers and duties. The City Clerk shall have the power and be required to:

1. Receive all documents addressed to the Council and present such documents to the Council.

2. Attend all meetings of the Council and its committees and be responsible for:

(a) Recording and maintaining an accurate journal of Council proceedings;

(b) Recording the ayes and noes in the final action upon the questions of granting franchises, making of contracts, approving of bills, disposing of or leasing city property, the passage or reconsideration of any ordinance, or upon any other act that involves the payment of money or the incurring of debt by the City; and

(c) Other duties as required upon the call of any member of the Council.

3. Maintain the journal of Council proceedings in books which shall bear appropriate titles and which shall be available for public inspection.

4. Maintain separate books in which shall be recorded respectively all ordinances and resolutions, with the certificate of the City Clerk annexed to each thereof stating the same to be the original or a correct copy, and as to an ordinance requiring publication, stating that the same has been published or posted in accordance with this Charter, and maintain all such books properly indexed and available for public inspection when not in actual use.

5. Have charge of the repository for contracts, surety bonds, agreements, and other related documents of City business.

6. Maintain custody of the City seal.

7. Administer oaths or affirmations, take affidavits and depositions pertaining to the affairs and business of the City, and issue certified copies of official City records.

8. Conduct all City elections.

Sec. 4.040 City Attorney; qualifications, power and duties.

1. The City Attorney shall be an attorney at law duly licensed under the laws of the State of Nevada. He or she shall devote such time to the duties of his or her office as may be specified in the ordinance or resolution fixing the compensation of such office. If practicable, the Council shall appoint an attorney who has had special training or experience in municipal corporation law.

2. The City Attorney shall have the power and be required to:

(a) Represent and advise the Council and all city officers in all matters of law pertaining to their offices;

(b) Attend all meetings of the Council and give his or her advice or opinion in writing whenever requested to do so by the Council or by any of the officers and boards of the City;

(c) Prepare or approve all proposed ordinances and resolutions for the City, and amendments thereto;

(d) Prosecute on behalf of the people such criminal cases for violation of this Charter or city ordinances, and of misdemeanor offenses and infractions arising upon violations of the laws of the State as, in his or her opinion, that of the Council or of the City Manager, warrant his or her attention;

(e) Represent and appear for the City, any city officer or employee, or former city officer or employee, in any or all actions and proceedings in which the City or any such officer or employee, in or by reason of his or her official capacity, is concerned or is a party;

(f) Approve the form of all bonds given to, and all contracts made by, the City, endorsing his or her approval thereon in writing; and

(g) On vacating the office, surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

3. The Council shall have control of all legal business and proceedings and may employ other attorneys to take charge of any litigation or matter or to assist the City Attorney therein.

Sec. 4.050 Director of Finance; qualifications, powers and duties.

1. The person appointed by the City Manager for the position of Director of Finance shall be qualified to administer and direct an integrated Department of Finance.

2. The Director of Finance shall have the power and be required to:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager.

(b) Supervise and be responsible for the disbursement of all money and have control over all expenditures to ensure that budget appropriations are not exceeded.

(c) Supervise a system of financial internal control including the auditing of all purchase orders before issuance, the auditing and approving before payment of all invoices, bills, payrolls, claims, demands or other charges against the City, and, with the advice of the City Attorney, when necessary, determining the regularity, legality and correctness of such charges.

(d) With the advice of the City Attorney, settle claims, demands or other charges, including the issuing of warrants therefor.

(e) Maintain general and cost accounting systems for the city government and each of its offices, departments and other agencies.

(f) Keep separate accounts for the items of appropriation contained in the city budget. Each account shall show the amount of appropriations, the

amounts paid therefrom, the unpaid obligations against it and the unencumbered balance.

(g) Require reports of the receipts and disbursements from each receiving and expending agency of the city government to be made daily or at such intervals as he or she may deem expedient.

(h) Submit to the Council through the City Manager a monthly statement of all receipts and disbursements and other financial data in sufficient detail to show the exact financial condition of the City, and, as of the end of each fiscal year, submit a complete financial statement and report.

(i) Administer the license and business tax program of the City.

(j) Direct treasury administration for the City, including, without limitation:

(1) Receiving and collecting revenues and receipts from whatever source;

(2) Maintaining custody of all public funds belonging to or under the control of the City or any office, department or other agency of the city government; and

(3) Depositing all funds coming into his or her hands in such depository as may be designated by resolution of the Council, or, if no such resolution is adopted, by the City Manager, in compliance with all of the provisions of the Constitution and laws of this State governing the handling, depositing, and securing of public funds.

(k) Direct centralized purchasing and a property control system for the city government under rules and regulations to be prescribed by ordinance.

Sec. 4.060 Performance review. On or before the annual anniversary date of the appointment of persons serving in the positions of City Manager, City Attorney and City Clerk, the Council shall review and evaluate the performance of such appointees.

Sec. 4.070 Appointment powers of department heads. Subject to the approval of the City Manager and subject to civil service rules and regulations adopted by the Council, each head of a department, office or other agency shall have the power to appoint and remove such deputies, assistants, subordinates and employees as are provided for by the Council for his or her department, office or other agency.

ARTICLE V

JUDICIAL

Sec. 5.010 Municipal court. The municipal court must be presided over by the Justice of the Peace of Laughlin Township as ex officio municipal judge.

Sec. 5.020 Municipal judge appointed. If the Office of Justice of the Peace of Laughlin Township ceases to exist, the municipal court shall be presided over by a municipal judge appointed by the Council.

ARTICLE VI**CITY BUDGETS**

Sec. 6.010 Budgets. Budgets for the City shall be prepared in accordance with and shall be governed by the provisions of the general laws of the State pertaining to budgets of cities.

ARTICLE VII**PUBLIC IMPROVEMENTS AND REPAIRS**

Sec. 7.010 Expenses of improvements; payment by funds or by special assessments. The expenses of public improvements and repairs, such as the improvement of streets and alleys by grading, paving, graveling and curbing, the construction, repair, maintenance and preservation of sidewalks, drains, curbs, gutters, storm sewers, drainage systems, sewerage systems and sewerage disposal plants, may be paid from the General Fund or Street Fund or the cost or portion thereof as the Council shall determine, may be defrayed by special assessments upon lots and premises abutting upon that part of the street or alley so improved or proposed so to be, or the land abutting upon such improvement and such other lands as in the opinion of the Council may benefit by the improvement all in the manner contained in the provisions of the Nevada Revised Statutes.

ARTICLE VIII**CITY ASSESSOR; TAX RECEIVER; FINANCES AND PURCHASING**

Sec. 8.010 Clark County Assessor to be ex officio City Assessor. The County Assessor of Clark County shall, in addition to the duties now imposed upon him or her by law, act as the Assessor of the City and shall be ex officio City Assessor, without further compensation. He or she shall perform such duties as the Council may by ordinance prescribe with the County Assessor's consent.

Sec. 8.020 Clark County Treasurer to be ex officio City Tax Receiver. The County Treasurer of Clark County shall, in addition to the duties now imposed upon him or her by law, act as ex officio City Tax Receiver. He or she shall receive and safely keep all moneys that come to the City by taxation, and shall pay the same to the Director of Finance. The City Tax Receiver may, with the consent of the Council, collect special assessments which may be levied by authority of this Charter or city ordinance when they become due and payable, and whenever and wherever the general laws of the State of Nevada regarding the authorized acts of tax receivers may be, the same hereby are, made applicable to the City Tax Receiver of the City of Laughlin, in the collection of city special assessments.

Sec. 8.030 Procedures for city purchasing. All purchases of goods or services of every kind or description for the City by any office, commission, board, department or any division thereof shall be made in conformance with the Nevada Revised Statutes, as amended from time to time.

Sec. 8.040 Transfer of appropriations. The City Manager may at any time transfer any unencumbered appropriation balance or portion thereof

between general classifications of expenditures within an office, department or agency.

Sec. 8.050 *When contracts and expenditures prohibited.*

1. No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for that general classification of expenditure pursuant to this Charter. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee of the City who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his or her office or employment.

2. Nothing in this section shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

ARTICLE IX

APPOINTIVE BOARDS AND COMMISSIONS

Sec. 9.010 *Established; enumerated.*

1. The Council may create by ordinance such other appointive boards or commissions as in its judgment are required and may grant to them powers and duties as are consistent with the provisions of this Charter. The Council, by motion adopted by the affirmative votes of at least a majority of its members, may appoint from time to time temporary committees as deemed advisable to render counsel and advice to the appointing authorities on any designated matters or subjects within the jurisdiction of such authorities.

2. The Personnel Board is hereby established and has the powers and duties contained in this Article.

Sec. 9.020 *Appointments, removals, vacancies, terms.*

1. Except as otherwise specified in this Charter, the members of each of the appointive boards and commissions shall be appointed, and may be removed, by the Council, subject in both appointment and removal by the affirmative votes of a majority of the Council. For the purposes of this rule, residency is only required at the time of nomination.

2. If a member of a board or commission:

(a) Is absent from two regular meetings of such board or commission, consecutively, unless by permission of such board or commission expressed in its official minutes;

(b) Fails to attend at least one-half of the regular meetings of such board or commission within a calendar year;

(c) Is convicted of a crime involving moral turpitude; or

(d) Ceases to be a qualified elector of the City,

↪ *the office of that member shall become vacant and shall be so declared by the Council.*

3. *Except as otherwise provided in subsection 2 or section 9.030, the members of such boards and commissions shall serve for a term of 2 years and until their respective successors are appointed and qualified.*

Sec. 9.030 Prohibition against serving as treasurer for campaign committee. If any member of an appointive board or commission shall become the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member, his or her office shall become vacant and shall be so declared by the Council. Any provisions of this Article notwithstanding, no person who serves as the treasurer of a campaign committee which receives contributions for any candidate for Mayor or Council member shall be eligible for appointment to any appointive board or commission.

Sec. 9.040 Appropriations therefor. The Council shall include in its annual budget such appropriations of funds as, in its opinion, shall be sufficient for the efficient and proper functioning of such appointive boards and commissions.

Sec. 9.050 Meetings; chair.

1. *The election of each chair and vice chair shall be held at the meetings of the respective boards and commissions during the month of July of each year. The board or commission, in the event of a vacancy in the office of the chair or vice chair, shall elect one of its members for the unexpired term. The chair shall have the responsibility for informing the Council or board, commission or committee of actions or inactions and the reasons therefor.*

2. *Each board or commission, other than the Personnel Board, shall hold a regular meeting at least once a month with reasonable provision for attendance by the public. The City Manager shall designate a secretary for the recording of minutes for each such board and commission, who shall keep a record of its proceedings and transactions. Each board and commission shall prescribe rules and regulations governing its operations which shall be consistent with this Charter and shall be filed with the City Clerk for public inspection. The Personnel Board shall meet monthly, provided there is business on the agenda to come before it. In the event no business is placed on the Personnel Board's agenda 5 days preceding the tentative meeting date, no meeting need be held, provided that in no event shall more than 3 months intervene between meetings of the Personnel Board.*

Sec. 9.060 Compensation. The members of appointive boards and commissions shall receive such compensation, if any, as may be prescribed by ordinance and may receive reimbursement for necessary traveling and other expenses when on official duty of the City when such expenditure has been so authorized by the board or commission and subject to rules and regulations prescribed by ordinance or order of the Council.

Sec. 9.070 Attendance of witnesses; oaths and affirmations. Each appointive board or commission shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it. Each member of any such board or commission shall have the power to administer oaths and affirmations in any investigation or proceeding pending before such board or commission.

Sec. 9.080 Personnel Board: Membership. The Personnel Board shall consist of five members to be appointed by the Council from the qualified electors of the City. None of the members shall be removed from office without reasonable and sufficient cause, in accordance with procedures as provided by ordinance. None of the members shall hold public office or employment in the city government or be a candidate for any other public office or position, be an officer of any local, state or national partisan political club or organization, or while a member of the Personnel Board or for a period of 1 year after he or she has ceased for any reason to be a member, be eligible for appointment to any salaried office or employment in the service of the City.

Sec. 9.090 Personnel Board: Powers and duties. The Personnel Board shall have the power and be required to:

1. Hear appeals pertaining to the disciplinary suspension, demotion or dismissal of any officer or employee having permanent status in any office, position or employment in the civil service, and as otherwise provided for in the civil service rules and regulations;

2. Consider matters that may be referred to it by the Council or the City Manager and render such counsel and advice in regard thereto as may be requested by the referring authorities;

3. By its own motion, make such studies and investigations as it may deem necessary for the review of civil service rules and regulations, or to determine the wisdom and efficacy of the rules, regulations, policies, plans and procedures dealing with civil service matters and report its findings and recommendations to the City Manager or the Council, or to both such authorities, as it may see fit; and

4. Conduct public hearings on proposed revisions of civil service rules and regulations in the manner as prescribed by ordinance and advise the Council of its findings in such matters within 60 days.

Sec. 9.100 Charter Committee: Appointment; terms; qualifications; compensation.

1. The Charter Committee must be appointed as follows:

(a) One member by each member of the Council.

(b) One member by the Mayor.

(c) One member by each member of the Senate and Assembly delegation representing the residents of the City.

2. Each member shall:

(a) Serve during the term of the person by whom he or she was appointed;

(b) Be a registered voter of the City; and

(c) Reside in the City during his or her term of office.

3. Members of the Committee are entitled to receive compensation, in an amount set by ordinance of the Council, for each full meeting of the Committee they attend.

Sec. 9.110 Charter Committee: Meetings; duties.

The Charter Committee shall:

1. Meet at least once every 2 years immediately before the beginning of each regular session of the Legislature and when requested by the Council or the Chair of the Committee.

2. Prepare recommendations to be presented to the Legislature on behalf of the City concerning all necessary amendments to this Charter.

3. Recommend to the Council the salary to be paid all elective officers for the ensuing term.

4. Perform all functions and do all things necessary to accomplish the purposes for which it is established, including, but not limited to, holding meetings and public hearings, and obtaining assistance from City officers.

Sec. 9.120 Charter Committee members: Removal; grounds.

1. Any member of the Charter Committee may be removed by a majority of the remaining members of the Committee for cause, including the failure or refusal to perform the duties of office, the absence from three successive regular meetings, or ceasing to meet any qualification for appointment to the Committee.

2. In case of removal, a replacement must be appointed by the officer who appointed the removed member.

ARTICLE X

CITY ELECTIONS

Sec. 10.010 Applicability of state election laws. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the Council which are consistent with law and this Charter.

Sec. 10.020 Terms. All full terms of office in the Council are 4 years, and Council members and the Mayor must be elected at large without regard to precinct residency. Two full-term Council members and the Mayor are to be elected in each year ~~immediately preceding~~ of a federal presidential election, and two full-term Council members are to be elected ~~in each year~~ 2 years immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions.

Sec. 10.030 Specific Council positions. In the event a 2-year term position on the Council will be available at the time of a municipal election as provided in section 10.020, a candidate must file specifically for such a

position. The candidate receiving the greatest respective number of votes must be declared elected to the available 2-year position.

Sec. 10.040 ~~[Primary municipal]~~ Municipal elections. ~~[A city]~~ Except as otherwise provided in this Charter, a primary municipal election and a general municipal election must be held on ~~[the first Tuesday after the first Monday in April of each odd-numbered year.~~ , and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.] the dates fixed by the election laws of this State for statewide elections.

Sec. 10.050 Primary not required. A primary municipal election must not be held if not 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 not 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.

Sec. 10.060 General municipal election not required. 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.

Sec. 10.070 Voters entitled to vote for each seat on ballot. In each primary municipal election and general municipal election, voters shall be entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections.

Sec. 10.080 Council to control elections. The conduct of all municipal elections shall be under the control of the Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the Council to provide for supplemental regulations for the prevention of fraud in such elections and for the recount of ballots in cases of doubt or fraud.

ARTICLE XI

INITIATIVE, REFERENDUM AND RECALL

Sec. 11.010 Registered voters' power of initiative and referendum concerning city ordinances. The registered voters of a city may:

- 1. Propose ordinances to the Council and, if the Council fails to adopt an ordinance so proposed without change in substance, adopt or reject it at a primary or general municipal election or primary or general state election; and*
- 2. Require reconsideration by the Council of any adopted ordinance, and if the Council fails to repeal an ordinance so considered, approve or reject it at a primary or general municipal election or primary or general state election.*

Sec. 11.020 Initiative and referendum proceedings. All initiative and referendum proceedings shall be conducted in conformance with the provisions of the Nevada Revised Statutes, as amended from time to time.

Sec. 11.030 Results of election.

1. If a majority of the registered voters voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the results of the election and must be treated in all respects in the same manner as ordinances of the same kind adopted by the Council. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes prevails to the extent of the conflict.

2. If a majority of the registered voters voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the results of the election.

3. No initiative ordinance voted upon by the registered voters or an initiative ordinance in substantially the same form as one voted upon by the people, may again be placed on the ballot until the next primary or general municipal election or primary or general state election.

Sec. 11.040 Repealing ordinances; publication. Initiative and referendum ordinances adopted or approved by the voters may be published and shall not be amended or repealed by the Council, as in the case of other ordinances.

Sec. 11.050 Recall of Council members. As provided by the general laws of this State, every member of the Council is subject to recall from office.

ARTICLE XII

PUBLIC UTILITIES

Sec. 12.010 Granting of franchises.

1. The City shall have the power to grant a franchise to any private corporation for the use of streets and other public places in the furnishing of any public utility service to the City and to its inhabitants.

2. All franchises and any renewals, extensions and amendments thereto shall be granted only by ordinance. A proposed franchise ordinance shall be submitted to the City Manager, and he or she shall render to the Council a written report containing recommendations thereon.

3. The City shall have the power, as one of the conditions of granting any franchise, to impose a franchise tax, either for the purpose of license or for revenue.

Sec. 12.020 Conditions and transfer of franchises.

1. Every franchise or renewal, extension or amendment of a franchise hereafter granted shall:

(a) Include that the City may issue such orders with respect to safety and other matters as may be necessary or desirable for the community; and

(b) Reserve to the City the right to make all future regulations or ordinances deemed necessary for the preservation of the health, safety and

public welfare of the City, including, without limitation, regulations concerning the imposition of uniform codes upon the utilities, standards and rules concerning the excavations and use to which the streets, alleys and public thoroughfares may be put and regulations concerning placement of easement improvements such as poles, valves, hydrants and the like.

2. No franchise shall be transferred hereafter by any utility to another without the approval of the Council, and as a condition to such approval, the successor in interest to the said franchise shall execute a written agreement containing a covenant that it will comply with all the terms and conditions of the franchise then in existence.

Sec. 12.030 Condemnation. The City, by initiative ordinance, shall have the right to condemn the property of any public utility subject to the provisions of chapter 37 of NRS. The public utility shall receive just compensation for the taking of its property. Such an initiative petition must be voted on by the people and cannot be passed by simple acceptance of the Council.

Sec. 12.040 Establishment of municipally owned and operated utilities.

1. The City shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed and to lease or purchase any existing utility properties used and useful in public service.

2. The Council may provide by ordinance for the establishment of such utility, but an ordinance providing for a newly owned and operated utility shall be enacted only after such hearings and procedure as required herein for the granting of a franchise, and shall also be submitted to and approved at a popular referendum provided that an ordinance providing for any extension, enlargement or improvement of an existing utility may be enacted as a matter of general municipal administration.

3. The City shall have the power to execute long-term contracts for the purpose of augmenting the services of existing municipally owned utilities. Such contracts shall be passed only in the form of ordinances and may exceed in length the terms of office of the members of the Council.

Sec. 12.050 Municipal utility organizations.

1. The Council may provide for the establishment of a separate department to administer the utility function, including the regulation of privately owned and operated utilities and the operation of municipally owned utilities. Such department shall keep separate financial and accounting records for each municipally owned and operated utility and before February 1 of each fiscal year, shall prepare for the City Manager, in accordance with his or her specifications, a comprehensive report of each utility. The responsible departments or officer shall endeavor to make each utility financially self-sustaining, unless the Council shall by ordinance adopt a different policy. All net profits derived from municipally

owned and operated utilities may be expended in the discretion of the Council for general municipal purposes.

2. The rates for the products and services of any municipally owned and operated utility shall only be established, reduced, altered or increased by resolution of the Council following a public hearing.

Sec. 12.060 Financial provisions.

1. The City may finance the acquisition of privately owned utility properties, the purchase of land and the cost of all construction and property installation for utility purposes by borrowing in accordance with the provisions of general law.

2. Appropriate provisions shall be made for the amortization and retirement of all bonds within a maximum period of 40 years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility.

Sec. 12.070 Sale of public utilities; proviso.

1. No public utility of any kind, after having been acquired by the City, may thereafter be sold or leased by the City, unless the proposition for the sale or lease has been submitted to the electors of the City at a special election or primary or general municipal election or primary or general state election. After a majority vote of those electors in favor of the sale, the sale may not be made except after 30 days' published notice thereof, except that the provisions of this section do not apply to a sale by the Council of parts, equipment, trucks, engines and tools which have become obsolete or worn out, any of which equipment may be sold by the Council in the regular course of business.

2. A special election may be held only if the Council determines, by a unanimous vote, that an emergency exists. The determination made by the Council is conclusive unless it is shown that the Council acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the Council must be commenced within 15 days after the Council's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the Council to prevent or mitigate a substantial financial loss to the City or to enable the Council to provide an essential service to the residents of the City.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Sec. 13.010 Removal of officers and employees. Subject to the provisions of this Charter not inconsistent herewith, any employee of the City may be suspended or dismissed from employment at any time by the City Manager or by any applicable person appointed by the City Manager pursuant to this Charter. Unless otherwise provided in this Charter, any such action shall be considered final and conclusive and shall not be subject to appeal to any city governmental entity.

Sec. 13.020 Right of City Manager and other officers of Council. The City Manager shall have the right to take part in the discussion of all matters coming before the Council, and the directors and other officers shall be entitled to take part in all discussions of the Council relating to their respective offices, departments or agencies.

Sec. 13.030 Personal interest.

1. No elective or appointive officer shall take any official action on any contract or other matter in which he or she has any financial interest.

2. A violation of the provisions of this section shall constitute a misdemeanor, subject to a penalty not to exceed the penalties specified for misdemeanors under applicable provisions of Nevada Revised Statutes in effect at the time of such violation.

Sec. 13.040 Official bonds. Officers or employees, as the Council may by general ordinance require so to do, including a municipal court judge appointed pursuant to section 5.020 of Article V, if any, shall give bond in such amount and with such surety as may be approved by the Council. The premiums on such bonds shall be paid by the City.

Sec. 13.050 Oath of office. Every officer of the City shall, before entering upon the duties of his or her office, take and subscribe to the official oath of office of the State of Nevada:

"I,....., do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and the Constitution and Government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any Ordinance, Resolution or Law of any State notwithstanding, and I will well and faithfully perform all the duties of the Office of..... on which I am about to enter; (if any oath) so help me God; (if any affirmation) under the pains and penalties of perjury."

Sec. 13.060 ~~Amending the Charter.~~

~~*1. An amendment to this Charter:*~~

~~*(a) May be made by the Legislature directly by the use of mandatory specific wording or indirectly by the use of wording allowing flexibility in expressing the required change. If a law is enacted which:*~~

~~*(1) Directly amends this Charter, such an amendment is not subject to public approval as provided in paragraph (b) and must be included in the Charter and identified as having been amended by the particular law involved.*~~

~~*(2) Requires that this Charter be amended but does not require the specific wording to be used, the Council shall propose a suitable amendment to be submitted to the registered voters of the City as provided by paragraph (b). If such a proposed amendment is not adopted by the voters, it must be redrafted and resubmitted to the voters at one or more general city elections or general state elections until an amendment is adopted.*~~

~~—(b) May be proposed by the Council and submitted to the registered voters of the City at a general city election or general state election.~~

~~—(c) May be proposed by a petition signed by registered voters of the City equal in number to 15 percent or more of the voters who voted at the latest preceding general city election and submitted to registered voters of the City at the next general city election or general state election.~~

~~—2. The City Attorney shall draft any amendment proposed pursuant to subparagraph (2) of paragraph (a) or paragraph (b) of subsection 1, or if such a proposed amendment has been previously drafted, the City Attorney shall review the previous draft and recommend to the Council any suggested changes or corrections.~~

~~—3. The City Attorney shall, upon request, review any amendment intended to be proposed by petition pursuant to paragraph (c) of subsection 1, make only such corrections as are agreed to by the proposers and report to the Council his or her analysis of the significance and potential effects of the proposed amendment.~~

~~—4. A petition for amendment must be in the form specified by state law for city initiative petitions and must be filed with the City Clerk not later than 6 months before the date of the general city election or general state election at which the proposed amendment is to be submitted to the voters of the City.~~

~~—5. When an amendment is adopted by the registered voters of the City, the City Clerk shall, within 30 days thereafter, transmit a certified copy of the amendment to the Legislative Counsel.~~

~~—6. Any amendment to the Charter proposed under the provisions of this section shall be adopted by a simple majority of the voters casting ballots on that question at two consecutive general elections before any such amendment shall become effective.~~

~~—Sec. 13.070] Short title; citation of City of Laughlin Act of 2011. This Charter shall be known and may be cited as the City of Laughlin Charter.~~

~~Sec. [13.080] 13.070 Construction of Charter; separability of provisions.~~

~~1. Whenever any reference is made to any portion of the Nevada Revised Statutes or of any other law of the State or of the United States, such reference shall apply to all amendments and additions thereto now or hereafter made.~~

~~2. If any section or part of a section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of a section may be inseparably connected in meaning and effect with the section or part of the section to which such holding shall directly apply.~~

Sec. 2. Section 9 of the Fort Mohave Valley Development Law, being chapter 427, Statutes of Nevada 2007, as amended by chapter 369, Statutes of Nevada 2009, at page 1860, is hereby amended to read as follows:

Sec. 9. Limitations on use of money.

~~{The}~~

1. *Except as otherwise provided in subsection 2, the* Board of County Commissioners may use money in the Fort Mohave Valley Development Fund only to:

~~{1-}~~ **(a)** Purchase or otherwise acquire lands described in sections 4 and 8 of this act; and

~~{2-}~~ **(b)** Administer the Fort Mohave Valley Development Law exclusively for the purposes of developing the Fort Mohave Valley and any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley, including, without limitation, the planning, design and construction of capital improvements which develop the land in the Fort Mohave Valley or in any general improvement district, special district, town or city whose territory contains all or a part of the land in the Fort Mohave Valley.

2. *The Board of County Commissioners shall use money in the Fort Mohave Valley Development Fund to pay:*

(a) *Any costs incurred by the Committee on Local Government Finance created by NRS 354.105, for the preparation of the report related to the fiscal feasibility of the incorporation of the City of Laughlin that is required by section 4 of this act;*

(b) *Any costs incurred by the County to hold the elections described in sections 5 and 11 this act; and*

(c) *Any other costs incurred by the County or City of Laughlin associated with the incorporation of the City of Laughlin,*

↪ to the extent that gifts, grants or donations are not available to pay for the expenses.

Sec. 3. As used in sections 3 to 16, inclusive, of this act:

1. "Board of County Commissioners" means the Board of County Commissioners of Clark County.

2. "City" means the City of Laughlin.

3. "City Council" means the City Council elected pursuant to section 11 of this act.

4. "County" means the County of Clark.

5. "Fort Mohave Valley Development Fund" means the fund created in the County Treasury pursuant to section 6 of the Fort Mohave Valley Development Law.

6. "Qualified elector" means a person who is registered to vote in this State and is a resident of the area to be included in the City, as shown by the last official registration lists before the election.

Sec. 4. 1. On or before December 31, 2011, the Committee on Local Government Finance, created by NRS 354.105, shall prepare and submit a report to the Board of County Commissioners and the Legislative Commission with respect to the fiscal feasibility of the incorporation of the City. This report must:

(a) Include, without limitation analyses of:

(1) The tax revenue and other revenues of the County that may be impacted by the incorporation of the City.

(2) The tax revenue and other revenues of the Township of Laughlin compared to the potential tax revenue and other revenues of the City after incorporation.

(3) The expenditures made by the Township of Laughlin compared to the anticipated expenditures of the City after incorporation.

(4) The expenditures made by the County for support of the Township of Laughlin that may or may not be impacted by the incorporation of the City.

(b) Be made available to the public for consideration before any election on the question of incorporation held pursuant to section 5 of this act.

2. Not later than 90 days after receiving the report, the Board of County Commissioners and the Legislative Commission shall review the report and make a determination as to whether the incorporation of the City is fiscally feasible.

3. The County Clerk shall cause the report to be published in a newspaper printed in the County and having a general circulation in the City at least once a week for 3 consecutive weeks. If the Board of County Commissioners or the Legislative Commission determines that the incorporation of the City is fiscally feasible, the final publication of the report must be published before the date of the election held pursuant to section 5 of this act.

Sec. 5. 1. If the Board of County Commissioners or the Legislative Commission determines pursuant to section 4 of this act that the incorporation of the City is fiscally feasible, an election on the question of incorporation of the City of Laughlin must be held. The election will also be a primary election for the offices of Mayor and City Council.

2. The Board of County Commissioners may call a special election for the purposes of subsection 1, or may conduct an election pursuant to subsection 1 on the date of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act. The special election, if any, must be held within 90 days after the Board of County Commissioners receives the report prepared pursuant to section 4 of this act and conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

3. If the Board of County Commissioners calls a special election for the purposes of subsection 1, the County Clerk shall cause a notice of the election to be published in a newspaper printed in the County and having a

general circulation in the City at least once a week for 3 consecutive weeks. The final publication of notice must be published before the date of the election.

4. If the Board of County Commissioners conducts an election pursuant to subsection 1 on the day of the first primary election held in the County after the Board of County Commissioners receives the report required by section 4 of this act, the County Clerk shall cause notice of the election to be published pursuant to NRS 293.203.

5. The notice of the election held pursuant to subsection 3 or 4 must contain:

- (a) The date of the election;
- (b) The hours during the day in which the polls will be open;
- (c) The location of the polling places;
- (d) A statement of the question in substantially the same form as it will appear on the ballots;
- (e) The names of the candidates; and
- (f) A list of the offices to which the candidates seek election.

Sec. 6. The incorporation question on the ballots used for an election held pursuant to section 5 of this act must be in substantially the following form:

Shall the area described as.....(describe area) be incorporated as the City of Laughlin?

Yes ☐

No ☐

The voter shall mark the ballot by placing a cross (x) next to the word "yes" or "no."

Sec. 7. 1. A person who wishes to become a candidate for any office to be voted for at an election held pursuant to section 5 of this act must:

- (a) Reside within the boundaries of the City;
- (b) File an affidavit of candidacy, which must include a declaration of residency, with the County Clerk not later than the date for the filing of such affidavits as set by the County Clerk; and
- (c) File a nomination petition containing at least 100 signatures of qualified electors.

2. Qualified electors may sign more than one nominating petition for candidates for the same office.

3. A candidate may withdraw his or her candidacy pursuant to the provisions of NRS 293.202.

4. If there are less than three candidates for any office to be filled at a primary election held pursuant to section 5 of this act, their names must not be placed on the ballot for the primary election but must be placed on the ballot for a general election held pursuant to section 11 of this act.

5. The names of the two candidates for mayor and for each seat on the City Council who receive the highest number of votes in a primary election held pursuant to section 5 of this act must be placed on the ballot for a general election held pursuant to section 11 of this act.

Sec. 8. 1. At least 10 days before an election held pursuant to section 5 of this act, the County Clerk shall cause to be mailed to each qualified elector a sample ballot for his or her precinct with a notice informing the elector of the location of his or her polling place.

2. The sample ballot must:

(a) Include the question in the form required by section 6 of this act;

(b) Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, a township, a section or any combination of these; and

(c) Include the names of candidates for the various offices as determined pursuant to section 7 of this act.

Sec. 9. 1. The Board of County Commissioners shall canvass the votes cast in an election held pursuant to section 5 of this act in the same manner as votes are canvassed in a general election. Upon completion of the canvass, the Board shall immediately notify the County Clerk of the results.

2. The County Clerk shall, upon receiving notice of the canvass from the Board of County Commissioners, immediately cause to be published a notice of the results of the election in a newspaper of general circulation in the County. If the incorporation is approved by the voters, the notice must include the category of the City according to population, as described in NRS 266.055. The County Clerk shall file a copy of the notice with the Secretary of State.

Sec. 10. 1. The Board of County Commissioners may accept gifts, grants and donations to pay for any expenses that are related to the incorporation of the City, including, without limitation:

(a) The costs incurred by the Committee on Local Government Finance for preparing the fiscal feasibility report required by section 4 of this act;

(b) The costs incurred by the County to hold any elections described in sections 5 and 11 of this act; and

(c) Any other costs incurred by the County or City associated with the incorporation of the City of Laughlin.

2. To the extent that gifts, grants and donations do not pay the costs of the expenses described in subsection 1, the Board of County Commissioners shall order the County Treasurer to pay such expenses from the Fort Mohave Valley Development Fund.

3. The County Clerk shall submit to the Board of County Commissioners a statement of all expenses related to conducting any elections held pursuant to sections 5 and 11 of this act.

Sec. 11. 1. If the incorporation of the City is approved by the voters at an election held pursuant to section 5 of this act, a general election must be held to elect four members of the City Council and the Mayor. The Board of County Commissioners may conduct a special election for the purposes of this subsection, or may conduct the election required by this subsection on

the date of the first general election held in the County after the date of the election held pursuant to section 5 of this act. The election must be conducted in accordance with the provisions of law relating to general elections so far as the same can be made applicable.

2. The names of the two candidates for Mayor and for each particular seat on the City Council who receive the highest number of votes in the primary election must be placed on the ballot for the general election. A candidate for Mayor or a seat on the City Council may not withdraw from the general election.

Sec. 12. 1. The term of the Mayor elected pursuant to section 11 of this act expires upon the election and qualification of the person elected Mayor in the ~~first~~ general **municipal** election held **in 2016** pursuant to section 10.020 of the City of Laughlin Charter.

2. ~~The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the first general election held pursuant to section 10.020 of the City of Laughlin Charter. The terms of the remaining members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the second general election held pursuant to section 10.020 of the City of Laughlin Charter.~~

~~—3—~~ 3. The members of the City Council elected pursuant to section 11 of this act shall, at the first meeting of the City Council after their election and qualification, draw lots to determine the length of their respective terms.

3. The terms of two of the members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the general municipal election held in 2014 pursuant to section 10.020 of the City of Laughlin Charter. The terms of the two other members of the City Council elected pursuant to section 11 of this act expire upon the election and qualification of the persons elected to the City Council in the general municipal election held in 2016 pursuant to section 10.020.

Sec. 13. Before the incorporation of the City becomes effective but after the general election held pursuant to section 11 of this act, the City Council may:

1. Prepare and adopt a budget;
2. Prepare and adopt ordinances;
3. Prepare to levy an ad valorem tax on property within the area of the City, at the time and in the amount prescribed by law for cities, for the fiscal year beginning on the date the incorporation of the City becomes effective;
4. Negotiate and prepare an equitable apportionment of the fixed assets of the County pursuant to section 15 of this act;
5. Negotiate and prepare contracts for the employment of personnel;

6. Negotiate and prepare contracts to provide services for the City, including, without limitation, those services provided for by chapter 277 of NRS;

7. Negotiate and prepare contracts for the purchase of equipment, materials and supplies;

8. Negotiate and prepare contracts or memorandums of understanding with the County for the City to provide services to unincorporated areas of the County that are contiguous to the City;

9. Negotiate and prepare a cooperative agreement pursuant to NRS 360.730; and

10. Communicate with and provide information to the Department of Taxation to effectuate the allocation of tax revenues on the date the incorporation of the City becomes effective.

Sec. 14. 1. During the period from the filing of the notice of results of an election conducted pursuant to section 5 of this act by the County Clerk until the date the incorporation of the City becomes effective, the County is entitled to receive the taxes and other revenue from the City and shall continue to provide services to the City.

2. Except as otherwise provided in NRS 318.492, all special districts, except fire protection districts, located within the boundaries of the City continue to exist within the City after the incorporation becomes effective.

Sec. 15. 1. The City Council and the Board of County Commissioners shall, before the date that the incorporation becomes effective or within 90 days after that date, equitably apportion those fixed assets of the County which are located within the boundaries of the City. The City Council and the Board of County Commissioners shall consider the location, use and types of assets in determining an equitable apportionment between the County and the City.

2. Any real property and its appurtenances located within the City and not required for the efficient operation of the County's duties must first be applied toward the City's share of the assets of the County. Any real property which is required by the County for the efficient operation of its duties must not be transferred to the City.

3. If an agreement to apportion the assets of the County is not reached within 90 days after the incorporation of the City, the matter may be submitted to arbitration upon the motion of either party.

4. Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.

Sec. 16. Any property located within the City which was assessed and taxed by the County before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the County before incorporation.

Sec. 17. 1. This section and sections 2 to 16, inclusive, of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective, if the incorporation of the City of Laughlin is approved by the voters at an election held pursuant to section 5 of this act, on July 1, 2013.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 262.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 400.

The following Assembly amendment was read:

Amendment No. 615.

"SUMMARY—Establishes a process by which a state agency may obtain certain information in county records at no charge for the purpose of assisting the economic development and population research of this State. (BDR 20-1143)"

"AN ACT relating to records; establishing a process by which a state agency may obtain certain county records at no charge for the purpose of economic development and population estimate research; prohibiting certain uses of confidential information contained in such county records; providing civil and criminal penalties; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes a process by which a state agency engaged in activities related to economic development and population research may obtain at no charge information on each parcel in a county, known as the parcel dataset, and the digital parcel base map of a county. ~~and electronic county assessor files.~~ **Section 1** of this bill requires a county assessor to provide each year to the ~~demographer~~ **State Demographer** employed by the Department of Taxation, at no charge, the fiscal year-end ~~datasets~~ **parcel dataset** of the county. ~~electronic assessor files.~~ **Section 5** of this bill requires a county which maintains or possesses a digital parcel base map of the county to provide the fiscal year-end digital parcel base map to the ~~demographer~~ **State Demographer** each year at no charge. Under **sections 1 and 5**, ~~of this bill,~~ the ~~demographer~~ **State Demographer** may not require a county to provide ~~electronic assessor files~~ a parcel dataset or a digital parcel base map in any particular digital or electronic format or to use any specific software to provide such information. Not more than once each year, the ~~demographer~~ **State Demographer** must provide the **parcel dataset and** digital parcel base ~~and the electronic assessor files~~ map at no charge to a state agency engaged in economic development and population research that submits a written request for the information. The state agency receiving the **parcel dataset or** digital parcel base ~~and the electronic assessor files~~ map must provide a summary of the research produced from the information to the county providing the information and the Commission on Economic Development at no charge. Under **sections 1 and 5**, a state agency receiving

~~[electronic assessor files]~~ **a parcel dataset** or a digital parcel base **map** for a county must keep such information confidential and must not knowingly redistribute the information to any other person or governmental agency.

Under existing law, the personal information of certain persons which is contained in the records of a county assessor is deemed confidential, except that a county assessor is authorized to release this confidential information for certain limited purposes. (NRS 250.100-250.230) Existing law provides criminal and civil penalties for improper acts related to obtaining or disclosing these confidential records. (NRS 250.210-250.230) **Section 1** of this bill makes these civil and criminal penalties applicable to an employee or agent of a state agency obtaining confidential information **in parcel datasets** from the ~~[demographer.]~~ **State Demographer.**

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

Section 1. Chapter 250 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Notwithstanding any other provision of law, not later than September 1 of each year, a county assessor shall provide to the State Demographer at no charge the ~~[fiscal year-end datasets]~~ **parcel dataset of the county** ~~[electronic]~~ assessor ~~[files.]~~ **as of June 30 of that year. The State Demographer may not require a county assessor to provide information pursuant to this subsection in a particular digital or electronic format or to use any specific software to provide the information. The State Demographer shall keep confidential the information provided to him or her pursuant to this subsection, except that the State Demographer shall provide such information at no charge to a state agency which satisfies the requirements of this section.***

*2. A state agency engaged in activities related to economic development or population estimate research may request the ~~[electronic]~~ **parcel datasets** ~~[of the electronic assessor files.]~~ **provided to the State Demographer pursuant to subsection 1** by submitting a written request to the State Demographer. The written request must include, without limitation:*

(a) The name and address of the state agency;

*(b) A statement of the purpose for which the state agency is seeking the ~~[electronic assessor files.]~~ **parcel datasets;** and*

*(c) A summary of the research or statistical reports which will be produced from the ~~[electronic assessor files.]~~ **parcel datasets.***

*3. Except as otherwise provided in subsection 4, if the State Demographer finds that a written request complies with subsection 2, the State Demographer shall provide to the state agency at no charge the ~~[electronic assessor files]~~ **parcel datasets** provided to the State Demographer pursuant to subsection 1.*

4. The State Demographer may refuse a request submitted by a state agency pursuant to subsection 2 if the State Demographer has provided the

requested information to the state agency during the calendar year in which the request is made.

5. *A state agency receiving ~~felectronic assessor files~~ parcel datasets pursuant to this section shall provide to the county that provided the ~~files~~ parcel datasets and the Commission on Economic Development, at no charge, a summary of the research produced from that information.*

6. *The State Demographer or any employee or other agent of a state agency receiving ~~felectronic assessor files~~ parcel datasets pursuant to this section shall not knowingly:*

(a) Publish or otherwise disclose any information made confidential pursuant to NRS 250.100 to 250.230, inclusive; or

(b) Use any information made confidential pursuant to NRS 250.100 to 250.230, inclusive, to contact any person.

7. *A person who violates subsection 6 is guilty of a misdemeanor and, in addition, the court may order a person who violates subsection 6 to pay a civil penalty in an amount not to exceed \$2,500 for each act.*

8. *A state agency receiving ~~felectronic assessor files~~ a parcel dataset pursuant to this section shall keep the ~~felectronic assessor files~~ parcel dataset confidential, and, except as otherwise provided in subsection 5, the State Demographer, or any employee or other agent of a state agency receiving ~~felectronic assessor files~~ a parcel dataset pursuant to this section, shall not provide the ~~felectronic assessor files~~ parcel dataset to any person or governmental agency.*

9. *As used in this section:*

(a) "Parcel dataset" means data or files maintained in digital or electronic format by a county assessor in the course of his or her duties that contain information on each parcel in the county, including, without limitation, information concerning ownership, parcel number, address, land designations and zoning, improvements and, if applicable, the date and price of sale.

(b) "State agency" means:

(1) The State of Nevada, or any agency, instrumentality or corporation thereof; and

(2) Faculty ~~belonging to~~ of the Nevada System of Higher Education or any branch or facility thereof.

~~felectronic assessor files~~ (c) "State Demographer" means the demographer employed pursuant to NRS 360.283.

Sec. 2. NRS 250.150 is hereby amended to read as follows:

250.150 If a person listed in NRS 250.140 requests confidentiality, the confidential information of that person may only be disclosed as provided in NRS 239.0115, 250.160 or 250.180 ~~or section 1 of this act.~~

Sec. 3. NRS 250.160 is hereby amended to read as follows:

250.160 1. A county assessor may provide confidential information for use:

(a) By any governmental entity, including, without limitation, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, without limitation, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders or pursuant to an order of a federal or state court.

(c) By a private investigator, private patrol officer or security consultant who is licensed pursuant to chapter 648 of NRS, for any use authorized pursuant to this section.

(d) In connection with an investigation conducted pursuant to NRS 253.0415 or 253.220.

(e) In activities relating to research and the production of statistical reports, if the address or information will not be published or otherwise disclosed or used to contact any person.

(f) In the bulk distribution of surveys, marketing material or solicitations, if the assessor has adopted policies and procedures to ensure that the information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations.

(g) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.

(h) In accordance with section 1 of this act.

2. Except for a reporter or editorial employee described in paragraph (g) of subsection 1, a person who obtains information pursuant to this section and sells or discloses that information shall keep and maintain for at least 5 years a record of:

(a) Each person to whom the information is sold or disclosed; and

(b) The purpose for which that person will use the information.

Sec. 4. NRS 250.210 is hereby amended to read as follows:

250.210 1. A person shall not:

(a) Make a false representation to obtain any information pursuant to NRS 250.100 to 250.180, inclusive; or

(b) Knowingly obtain or disclose information pursuant to NRS 250.100 to 250.180, inclusive, for any use not authorized pursuant to NRS 250.100 to 250.180, inclusive ~~or~~, ***or section 1 of this act.***

2. A person who violates the provisions of this section is guilty of a misdemeanor.

Sec. 5. Chapter 237 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law, not later than September 1 of each year, each county which possesses or maintains a

digital parcel base map for the county shall provide the ~~fiscal year-end~~ digital parcel base map for the county, as of June 30 of that year, to the State Demographer at no charge. The State Demographer may not require a county to provide a digital parcel base map in a particular electronic format or to use any specific software to provide the digital parcel base ~~f~~ map. The State Demographer shall keep confidential the information provided to him or her pursuant to this subsection, except that the State Demographer shall provide such information at no charge to a state agency which satisfies the requirements of this section.

2. A state agency engaged in activities related to economic development or population estimate research may request the digital parcel ~~bases~~ base maps for each county that possesses or maintains a digital parcel base map by submitting a written request to the State Demographer. The written request must include, without limitation:

(a) The name and address of the state agency;

(b) A statement of the purpose for which the state agency is seeking the digital parcel ~~bases~~ base maps; and

(c) A summary of the research or statistical reports which will be produced from the digital parcel ~~bases~~ base maps.

3. Except as otherwise provided in subsection 4, if the State Demographer finds that a written request complies with subsection 2, the State Demographer shall provide to the state agency at no charge the digital parcel ~~bases~~ base maps provided to the State Demographer pursuant to subsection 1.

4. The State Demographer may refuse a request submitted by a state agency pursuant to subsection 2 if the State Demographer has provided the requested information to the state agency during the calendar year in which the request is made.

5. A state agency receiving a digital parcel ~~bases~~ base map pursuant to this section shall provide to the county that provided the digital parcel ~~bases~~ base map and the Commission on Economic Development, at no charge, a summary of the research produced from that information.

6. A state agency receiving a digital parcel base map pursuant to this section shall keep the digital parcel base map confidential, and, except as otherwise provided in subsection 5, the State Demographer, or any employee or other agent of a state agency receiving a digital parcel base map for a county pursuant to this section, shall not provide the digital parcel base map to any person or governmental agency.

7. As used in this section:

(a) "Digital parcel base map" means a map in an electronic format that contains the boundaries of the parcels in the county.

(b) "State agency" means:

(1) The State of Nevada, or any agency, instrumentality or corporation thereof; and

(2) Faculty ~~belonging to~~ of the Nevada System of Higher Education or any branch or facility thereof.

~~[(b)]~~ *(c) "State Demographer" means the demographer employed pursuant to NRS 360.283.*

Sec. 6. This act becomes effective on July 1, 2011.

Senator Lee moved that the Senate concur in the Assembly amendment to Senate Bill No. 400.

Motion carried by a constitutional majority.

Bill ordered enrolled.

GENERAL FILE AND THIRD READING

Senate Bill No. 493.

Bill read third time.

The following amendment was proposed by the Committee on Revenue:
Amendment No. 893.

"SUMMARY—Creates the Mining Oversight and Accountability Commission ~~and~~ **and revises the provisions governing the calculation of the net proceeds of mines.** (BDR 32-1152)"

"AN ACT relating to mining; creating the Mining Oversight and Accountability Commission and establishing its membership, powers and duties; **revising provisions governing the calculation of net proceeds from certain mining operations conducted in this State;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law does not provide for a single administrative body to oversee the activities of the various state agencies that have responsibility for the taxation, operation, safety and environmental regulation of mines and mining in this State. Section 5 of this bill creates the Mining Oversight and Accountability Commission. Two members of the Commission are appointed by the Governor. The Majority Leader of the Senate and the Speaker of the Assembly each appoint two additional members. In the first biennium, the seventh member is appointed by the Minority Leader of the Senate. In the next biennium, the seventh member is appointed by the Minority Leader of the Assembly. The appointment continues to alternate each biennium thereafter. Section 7 of this bill requires the Commission to ~~exercise plenary oversight of~~ **provide oversight of compliance with Nevada law relating to** the activities of each state agency or political subdivision ~~(in connection)~~ with **respect to** the taxation, operation, safety and environmental regulation of mines and mining in this State. Section 7 also identifies particular state entities that are subject to ~~its oversight in connection~~ **the supervision of the Commission** with **respect to** their activities related to mines and mining: (1) the Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals; (2) the Division of Industrial Relations of the Department of Business and Industry concerning the safe and healthful working conditions at mines; (3) the Commission on Mineral

Resources and the Division of Minerals of the Commission; (4) the Bureau of Mines and Geology of the State of Nevada; and (5) the Division of Environmental Protection of the State Department of Conservation and Natural Resources in its activities concerning the reclamation of land used in mining. Sections 8 and 13-16 of this bill establish certain reports and other information that those entities are required to provide to the Commission. Section 11 of this bill authorizes the Commission to request the Legislative Commission to direct the Legislative Auditor to provide for a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State. Section 12 of this bill provides that certain regulations of the Nevada Tax Commission, Administrator of the Division of Industrial Relations, ~~of the Department of Business and Industry,~~ Commission on Mineral Resources and the State Environmental Commission concerning mines and mining are not effective unless they are approved by the Commission. **Section 12.5 of this bill revises provisions governing the calculation of net proceeds from certain mining operations conducted in this State.**

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

Section 1. Chapter 362 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12 inclusive, of this act.

Sec. 2. *As used in sections 2 to 12, 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. *"Chair" means the Chair of the Commission.*

Sec. 4. *"Commission" means the Mining Oversight and Accountability Commission created by section 5 of this act.*

Sec. 5. 1. *There is hereby created the Mining Oversight and Accountability Commission consisting of seven members appointed as follows:*

- (a) Two members appointed by the Governor;*
- (b) Two members appointed by the Majority Leader of the Senate;*
- (c) Two members appointed by the Speaker of the Assembly; and*
- (d) One member appointed by the Minority Leader of the Senate or the Minority Leader of the Assembly. The appointment must alternate each biennium between the Houses of the Legislature.*

2. *The Governor, Majority Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate and Minority Leader of the Assembly shall confer before making an appointment to ensure that:*

- (a) Not more than two of the members are appointed from any one county in this State; and*
- (b) Not more than two of the members have a direct or indirect financial interest in the mining industry or are related by blood or marriage to a person who has such an interest.*

3. *Each member of the Commission serves for a term of 2 years.*

4. *A vacancy on the Commission must be filled by the appointing authority in the same manner as the original appointment.*

Sec. 6. 1. *The Commission shall elect one of its members as Chair and another as Vice Chair, who shall serve for a term of 1 year or until their successors are elected and qualified.*

2. *The Commission shall meet at least once each calendar quarter and may meet at other times on the call of the Chair or a majority of its members.*

3. *A majority of the members of the Commission 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 Commission.*

4. *While engaged in the business of the Commission, each member of the Commission is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.*

5. *The Executive Director of the Department shall assign employees of the Department to provide such technical, clerical and operational assistance to the Commission as the functions and operations of the Commission may require.*

Sec. 7. *Notwithstanding any other provision of law, the Commission shall ~~exercise plenary oversight of~~ provide oversight of compliance with Nevada law relating to the activities of each state agency, board, bureau, commission, department, division or political subdivision ~~[in connection]~~ with respect to the taxation, operation, safety and environmental regulation of mines and mining in this State, including, without limitation, the activities of:*

1. *The Nevada Tax Commission and the Department of Taxation in the taxation of the net proceeds of minerals pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution.*

2. *The Division of Industrial Relations of the Department of Business and Industry in administering the provisions of chapter 512 of NRS concerning the safe and healthful working conditions at mines.*

3. *The Commission on Mineral Resources and the Division of Minerals of the Commission in the administration of the provisions of chapters 513 and 522 of NRS concerning the conduct of mining operations and operations for the production of oil, gas and geothermal energy in the State.*

4. *The Bureau of Mines and Geology of the State of Nevada in the Public Service Division of the Nevada System of Higher Education in its administration of the provisions of chapter 514 of NRS.*

5. *The Division of Environmental Protection of the State Department of Conservation and Natural Resources in its administration of the provisions of chapter 519A of NRS concerning the reclamation of mined land, areas of exploration and former areas of mining or exploration.*

Sec. 8. In addition to any other information requested by the Commission pursuant to section 9 of this act:

1. The Administrator of the Division of Industrial Relations of the Department of Business and Industry shall submit to the Commission at its first regular meeting in each calendar year the report that is required pursuant to NRS 512.140 concerning the functions of the Administrator under chapter 512 of NRS concerning the creation and maintenance of safe and healthful working conditions at mines in this State during the immediately preceding calendar year.

2. The Department of Taxation shall submit to the Commission at the second regular meeting of the Commission in each calendar year:

(a) An audit program identifying each mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive, that the Department intends to audit during the immediately following calendar year;

(b) A report of the results of each audit of a mining operator or other person completed by the Department during the immediately preceding calendar year; and

(c) A report of the status of each audit of a mining operator or other person that is in process at the time of the report.

3. The Division of Environmental Protection of the State Department of Conservation and Natural Resources shall submit to the Commission at its third regular meeting in each calendar year a report concerning the Division's activities concerning the reclamation of mined lands, areas of exploration and former areas of mining or exploration during the immediately preceding calendar year, including, without limitation, an accounting of the amounts of fees collected for permits issued by the Division and any fines imposed by the Division.

Sec. 9. 1. In conducting the investigations and hearings of the Commission:

(a) The Chair or any member designated by the Chair may administer oaths.

(b) The Chair may cause the deposition of witnesses, residing either within or outside of the State, to be taken in the manner prescribed by rule of court for taking depositions in civil actions in the district courts.

(c) The Chair may issue subpoenas to compel the attendance of witnesses and the production of books and papers.

2. If any witness refuses to attend or testify or produce any books and papers as required by the subpoena, the Chair may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission which is named in the subpoena, or has refused to answer questions propounded to the witness,

↪ and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

3. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and to show cause why the witness has not attended or testified or produced the books or papers before the Commission. 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 Commission, the court shall enter an order that the witness appear before the Commission at the time and place fixed in the order and testify or produce the required books or papers. Failure to obey the order constitutes contempt of court.

Sec. 10. 1. Each witness who appears before the Commission by its order, except a state officer or employee, is entitled to receive for such attendance the fees and mileage provided for witnesses in civil cases in the courts of record of this State.

2. The fees and mileage must be audited and paid upon the presentation of proper claims sworn to by the witness and approved by the Chair of the Commission.

Sec. 11. 1. The Commission may submit a request to the Legislative Commission that the Legislative Auditor be directed to undertake, or to contract with a qualified accounting firm to undertake, a special audit or investigation of the activities of any state agency, board, bureau, commission or political subdivision in connection with the taxation, operation, safety and environmental regulation of mines and mining in this State.

2. The request submitted pursuant to subsection 1 must be accompanied by an explanation of the circumstances that give rise to the request.

Sec. 12. A regulation adopted by the:

1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any taxation related to the extraction of any mineral in this State, including, without limitation, the taxation of the net proceeds pursuant to this chapter and Section 5 of Article 10 of the Nevada Constitution;

2. Administrator of the Division of Industrial Relations of the Department of Business and Industry for mine health and safety pursuant to NRS 512.131;

3. Commission on Mineral Resources pursuant to 513.063, 513.094 or 519A.290; and

4. State Environmental Commission pursuant to NRS 519A.160,

↪ *is not effective unless it is approved by the Mining Oversight and Accountability Commission.*

Sec. 12.5. NRS 362.120 is hereby amended to read as follows:

362.120 1. The Department shall, from the statement filed pursuant to NRS 362.110 and from all obtainable data, evidence and reports, compute in dollars and cents the gross yield and net proceeds of the calendar year immediately preceding the year in which the statement is filed.

2. The gross yield must include the value of any mineral extracted which was:

- (a) Sold;
- (b) Exchanged for any thing or service;
- (c) Removed from the State in a form ready for use or sale; or
- (d) Used in a manufacturing process or in providing a service,

↪ during that period.

3. The net proceeds are ascertained and determined by subtracting from the gross yield the following deductions for costs incurred during that period, and none other:

(a) The actual cost of extracting the mineral ~~it~~, **which is limited to direct costs for activities performed in the State of Nevada.**

(b) The actual cost of transporting the mineral to the place or places of reduction, refining and sale.

(c) The actual cost of reduction, refining and sale.

(d) The actual cost of ~~marketing and~~ delivering the mineral ~~and the conversion of the mineral into money.~~

(e) The actual cost of maintenance and repairs of:

(1) All machinery, equipment, apparatus and facilities used in the mine.

(2) All milling, refining, smelting and reduction works, plants and facilities.

(3) All facilities and equipment for transportation except those that are under the jurisdiction of the Public Utilities Commission of Nevada or the Nevada Transportation Authority.

(f) ~~The actual cost of fire insurance on the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e).~~

~~—(g)—~~ Depreciation of the original capitalized cost of the machinery, equipment, apparatus, works, plants and facilities mentioned in paragraph (e).

The annual depreciation charge consists of amortization of the original cost in a manner prescribed by regulation of the Nevada Tax Commission ~~it~~ **and approved by the Mining Oversight and Accountability Commission created by section 5 of this act.** The probable life of the property represented by the original cost must be considered in computing the depreciation charge.

~~{(h)} All money expended for premiums for industrial insurance, and the actual cost of hospital and medical attention and accident benefits and group insurance for all employees.~~

~~—(i)—~~ **(g)** All money paid as contributions or payments under the unemployment compensation law of the State of Nevada, as contained in

chapter 612 of NRS, all money paid as contributions under the Social Security Act of the Federal Government, and all money paid to either the State of Nevada or the Federal Government under any amendment to either or both of the statutes mentioned in this paragraph.

~~(f)(i)~~ **(h) The costs of employee travel which occurs within the State of Nevada and which is directly related to mining operations within the State of Nevada.**

(i) The costs of Nevada-based corporate services relating to paragraphs (e) to (h), inclusive.

(j) The actual cost of developmental work in or about the mine or upon a group of mines when operated as a unit.

~~(k)~~ **, which is limited to work that is necessary to the operation of the mine or group of mines.**

(k) The costs of reclamation work in the years the reclamation work occurred, including, without limitation, costs associated with the remediation of a site.

(l) All money paid as royalties by a lessee or sublessee of a mine or well, or by both, in determining the net proceeds of the lessee or sublessee, or both.

4. Royalties deducted by a lessee or sublessee constitute part of the net proceeds of the minerals extracted, upon which a tax must be levied against the person to whom the royalty has been paid.

5. Every person acquiring property in the State of Nevada to engage in the extraction of minerals and who incurs any of the expenses mentioned in subsection 3 shall report those expenses and the recipient of any royalty to the Department on forms provided by the Department. **The Department shall report annually to the Mining Oversight and Accountability Commission the expenses and deductions of each mining operation in the State of Nevada.**

6. The several deductions mentioned in subsection 3 do not include any expenditures for salaries, or any portion of salaries, of any person not actually engaged in:

(a) The working of the mine;

(b) The operating of the mill, smelter or reduction works;

(c) The operating of the facilities or equipment for transportation;

(d) Superintending the management of any of those operations; ~~for~~

(e) The State of Nevada, in office, clerical or engineering work necessary or proper in connection with any of those operations. ~~for~~ **; or**

(f) Nevada-based corporate services.

7. The following expenses are specifically excluded from any deductions from the gross yield:

(a) The costs of employee housing.

(b) Except as otherwise provided in paragraph (h) of subsection 3, the costs of employee travel.

(c) The costs of severing the employment of any employees.

(d) Any dues paid to a third-party organization or trade association to promote or advertise a product.

(e) Expenses relating to governmental relations or to compensate a natural person or entity to influence legislative decisions.

(f) The costs of mineral exploration.

(g) Any federal, state or local taxes.

8. As used in this section, "Nevada-based corporate services" means corporate services which are performed in the State of Nevada from an office located in this State and which directly support mining operations in this State, including, without limitation, accounting functions relating to mining operations at a mine site in this State such as payroll, accounts payable, production reporting, cost reporting, state and local tax reporting and recordkeeping concerning property.

Sec. 13. NRS 512.140 is hereby amended to read as follows:

512.140 The Administrator shall submit annually to the Governor, *and to the Mining Oversight and Accountability Commission created by section 5 of this act*, as soon as practicable after the beginning of each calendar year, a full report of the administration of the Administrator's functions under this chapter during the preceding calendar year. The report must include, either in summary or detailed form, the information obtained by the Administrator under this chapter together with such findings and comments thereon and such recommendations as the Administrator may deem proper.

Sec. 14. NRS 513.063 is hereby amended to read as follows:

513.063 The Commission shall:

1. Keep itself informed of and interested in the entire field of legislation and administration charged to the Division.

2. Report to the Governor , *the Mining Oversight and Accountability Commission created by section 5 of this act* ~~and~~ and the Legislature on all matters which it may deem pertinent to the Division, and concerning any specific matters previously requested by the Governor ~~and~~ *or the Mining Oversight and Accountability Commission*.

3. Advise and make recommendations to the Governor , *the Mining Oversight and Accountability Commission* and the Legislature concerning the policy of this State relating to minerals.

4. Formulate the administrative policies of the Division.

5. Adopt regulations necessary for carrying out the duties of the Commission and the Division.

Sec. 15. NRS 513.093 is hereby amended to read as follows:

513.093 The Administrator:

1. Shall coordinate the activities of the Division.

2. Shall report to the Commission upon all matters pertaining to the administration of the Division.

3. *Shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of that Commission and:*

(a) Report to the Mining Oversight and Accountability Commission on the activities of the Division undertaken since the Division's previous report, including, without limitation, an accounting of any fees or fines imposed or collected;

(b) The current condition of mining and of exploration for and production of oil, gas and geothermal energy in the State; and

(c) Provide any technical information required by the Mining Oversight and Accountability Commission during the course of the meeting.

4. Shall submit a biennial report to the Governor and the Legislature through the Commission concerning the work of the Division, with recommendations that the Administrator may deem necessary. The report must set forth the facts relating to the condition of mining and of exploration for and production of oil and gas in the State.

Sec. 16. Chapter 514 of NRS is hereby amended by adding thereto a new section to read as follows:

The Director of the Bureau of Mines and Geology shall attend each regular meeting of the Mining Oversight and Accountability Commission created by section 5 of this act and each special meeting if requested by the Chair of the Commission and:

1. Report to the Commission on the activities of the Bureau of Mines and Geology undertaken by the Bureau since its previous report, including, without limitation, the current condition of mining and of exploration for and production of oil and gas in the State; and

2. Provide any technical information required by the Commission during the course of the meeting.

Sec. 17. The Department of Taxation shall submit to the Mining Oversight and Accountability Commission created by section 5 of this act at the first regular meeting of the Commission following the effective date of this act a comprehensive audit program that sets forth the Department's plan for completing an audit of every mining operator or other person who is required to file a statement concerning the extraction of minerals in this State pursuant to NRS 362.100 to 362.240, inclusive.

Sec. 17.3. The amendatory provisions of section 12.5 of this act:

1. Do not apply to or affect any determination of gross yield or net proceeds required pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2011.

2. Apply for the purposes of estimating and determining gross yield and net proceeds pursuant to NRS 362.100 to 362.240, inclusive, for the calendar year 2012 and each calendar year thereafter.

Sec. 17.7. 1. The Nevada Tax Commission, on or before January 1, 2012, and subject to the requirements of section 12 of this act, shall adopt regulations to carry out the provisions of NRS 362.120, as amended by section 12.5 of this act.

2. In adopting regulations pursuant to subsection 1, the Nevada Tax Commission shall amend or repeal any of its existing regulations that

conflict or are inconsistent with the provisions of NRS 362.120, as amended by section 12.5 of this act.

Sec. 18. Notwithstanding the provisions of section 5 of this act, as soon as practicable after the effective date of this act:

1. The Governor, Majority Leader of the Senate and Speaker of the Assembly shall each appoint ~~to~~ **to the Mining Oversight and Accountability Commission created by section 5 of this act:**

(a) One member whose term expires on June 30, 2012; and

(b) One member whose term expires on June 30, 2013.

2. The Minority Leader of the Senate shall appoint **to the Mining Oversight and Accountability Commission created by section 5 of this act** one member whose term expires on June 30, 2013.

Sec. 19. **1. This section and sections 1 to 12, inclusive, and 13 to 18, inclusive, of this act ~~becomes~~ become effective upon passage and approval.**

2. Section 12.5 of this act becomes effective on January 1, 2012.

Senator Leslie moved the adoption of the amendment.

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

Amendment No. 893 to Senate Bill No. 493 makes several changes and further clarifies the types of deductions that may be claimed for the purposes of calculating the net proceeds of minerals.

The amendment removes deductions for the cost of marketing, the cost of converting the mineral into money, and costs related to insurance.

The amendment adds deductions for the cost of in-state travel that is directly related to mining operations in Nevada, costs related to Nevada-based corporate services and certain costs related to reclamation and remediation of a site.

The amendment also identifies certain expenses that are specifically excluded from any deductions from the gross yield.

Finally, the amendment clarifies that the changes to the deductions contained within the bill will become effective on January 1, 2012, and will not impact the calculation of the net proceeds of minerals or any tax payments based on mining activity for calendar year 2011. The changes to the deductions will apply to the calculation of net proceeds of minerals and tax payments beginning in calendar year 2012 and each year thereafter.

Amendment adopted.

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

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 200.

The following Assembly amendment was read:

Amendment No. 720.

"SUMMARY—Makes various changes relating to time shares. (BDR 10-217)"

"AN ACT relating to time shares; restricting the disclosure of certain information about owners of time shares; requiring certain mailings to owners of time shares upon request by an owner; ~~following a notice of sale on the foreclosure of a time share to be given by posting on an Internet~~

~~website under certain circumstances,] and providing other matters properly relating thereto."~~

Legislative Counsel's Digest:

Section 2 of this bill requires the manager or board of an association of a time-share plan to maintain a list of owners of time shares in the plan. **Section 2** also prohibits the manager or board from disclosing personal information about an owner without the prior written consent of the owner except under certain circumstances.

Section 3 of this bill requires the manager or board of an association of a time-share plan to: (1) mail certain materials to all owners on the list of owners of time shares in the plan upon the request of an owner under certain circumstances; (2) provide an owner with the option to place certain limits on the information that may be provided to other owners; (3) provide an owner with a written disclosure regarding the potential effect of giving consent to publish or furnish information about the owner; and (4) establish procedures for such mailings.

~~[Existing law requires that, among other forms of notice, a sale of a time share to satisfy a lien for unpaid assessments be noticed by publication in a newspaper under certain circumstances. (NRS 119A.560) Section 4 of this bill authorizes, as an alternative to the newspaper form of publication, such a notice of sale and a declaration in a form to be prepared by the Real Estate Division of the Department of Business and Industry to be posted on an Internet website if a statement of the Internet address is also published in a newspaper.~~

~~Existing law requires that, among other forms of notice, a sale of real property in foreclosure under a deed of trust be noticed by publication in a newspaper under certain circumstances. (NRS 107.080) Section 5 of this bill authorizes, as an alternative to that form of publication, a notice of a time share in foreclosure under a deed of trust to be posted on an Internet website if a statement of the Internet address is also published in a newspaper.]~~

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

Section 1. Chapter 119A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *A manager or, if there is no manager, the board shall maintain in the records of an association a complete list of the names and mailing addresses of all owners. The list must be updated not less frequently than quarterly.*

2. *If a time-share plan is part of a common-interest community governed by chapter 116 of NRS, the names and addresses of delegates or representatives who are elected pursuant to NRS 116.31105 or, if there are none, the name and address of the association must appear on the list of owners of an association organized under NRS 116.3101 in lieu of the names, addresses and other personal information of the individual owners.*

3. *Notwithstanding any provision of the declaration or bylaws of a time-share plan to the contrary, a manager or a board may not, except as otherwise authorized or required by law, publish or furnish any information about any owner to any other owner or any other person without the prior written consent of the owner whose information is requested.*

4. *Before obtaining the written consent of an owner pursuant to subsection 3, a manager or a board shall provide the owner with:*

(a) *The option to limit the information about the owner that may be published or furnished to any other owner or any other person:*

(1) *To exclusively the owner's name and mailing address; and*

(2) *For use only in legitimate matters of business of the association.*

(b) *The following written disclosure:*

BY GIVING YOUR CONSENT TO PUBLISH OR FURNISH INFORMATION ABOUT YOU FOR PURPOSES OTHER THAN LEGITIMATE MATTERS OF BUSINESS OF THE ASSOCIATION, THE INFORMATION COULD BE USED FOR COMMERCIAL OR OTHER PURPOSES.

5. *The provisions of this section:*

(a) *Do not restrict the use by a manager or a board of information about an owner in the performance of their respective duties under the declaration of a time share plan or as otherwise required by law.*

(b) *Supersede any provisions of chapter 82 of NRS to the contrary.*

Sec. 3. 1. A manager or, if there is no manager, the board shall:

(a) *Establish reasonable procedures by which owners may:*

(1) *Solicit votes or proxies from other owners; and*

(2) *Provide information to other owners with respect to legitimate matters of business of the association.*

(b) *Mail to all persons included in the list of owners materials provided by an owner upon the request of that owner if the purpose of the mailing is to advance legitimate matters of business of the association, including, without limitation, a solicitation of a proxy for any purpose, provided that the owner who requests the mailing:*

(1) *Provides to the manager or board a separate copy of the materials for each of the owners on the list or, if the mailing is to be transmitted electronically, a single copy of the materials in an electronic format; and*

(2) *Pays the association the actual costs of the mailing before the mailing.*

2. *The board is responsible for determining whether a mailing requested pursuant to this section advances legitimate matters of business of the association.*

3. *The manager or board, as applicable, may determine the manner in which a mailing may be accomplished.*

4. For the purposes of this section, "mail" and "mailing" include, without limitation, a distribution made by electronic or similar means, such as the transmission of electronic mail as defined in NRS 41.715.

Sec. 4. ~~[NRS 119A.560 is hereby amended to read as follows:~~

~~— 119A.560 — 1. The power of sale may not be exercised until:~~

~~— (a) The developer or the association, its agent or attorney has first executed and caused to be recorded with the recorder of the county wherein the project is located a notice of default and election to sell the time share or cause its sale to satisfy the assessment lien; and~~

~~— (b) The owner or his or her successor in interest has failed to pay the amount of the lien, including costs, fees and expenses incident to its enforcement for 60 days computed as prescribed in subsection 2.~~

~~— 2. The 60-day period provided in subsection 1 begins on the first day following the day upon which the notice of default and election to sell is recorded and a copy of the notice is mailed by certified or registered mail with postage prepaid to the owner or to his or her successor in interest at the owner's address if that address is known, otherwise to the address of the project. The notice must describe the deficiency in payment.~~

~~— 3. The developer or the association, its agent or attorney shall, after expiration of the 60-day period and before selling the time share, give notice of the time and place of the sale in the manner and for a time not less than that required for the sale of real property upon execution, except that [a]:~~

~~— (a) A copy of the notice of sale must be mailed on or before the first publication or posting required by NRS 21.130 by certified or registered mail with postage prepaid to the owner or to his or her successor in interest at the owner's address if that address is known, otherwise to the address of the project [.] ; and~~

~~— (b) In lieu of publishing a copy of the notice of sale in a newspaper pursuant to the provisions of NRS 21.130, the notice of sale may be given by posting a copy of the notice and a declaration pursuant to NRS 53.045 in a form prescribed by the Division pursuant to subsection 6 for 3 successive weeks on an Internet website and publishing three times, once a week for 3 successive weeks, in a newspaper, if there is one in the county, a statement, in at least 10-point bold type, which includes, without limitation:~~

~~— (1) A statement that the notice of sale for the foreclosure of the time share is posted on an Internet website;~~

~~— (2) The Internet address where the notice is posted; and~~

~~— (3) The name and street address of the property in which the time share is located.~~

~~— 4. The sale may be made at the office of the developer or the association if the notice so provided, whether the project is located within the same county as the office of the developer or the association or not.~~

~~— [4.] 5. Every sale made under the provisions of NRS 119A.550 vests in the purchaser the title of the owner without equity or right of redemption.~~

~~— 6. The Division shall prepare a form for a declaration pursuant to NRS 53.045 that a developer or association must post on an Internet website with a notice of sale pursuant to paragraph (b) of subsection 3.~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 107.080 is hereby amended to read as follows:~~

~~— 107.080 1. Except as otherwise provided in NRS 107.085 and 107.086, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.~~

~~— 2. The power of sale must not be exercised, however, until:~~

~~— (a) Except as otherwise provided in paragraph (b), in the case of any trust agreement coming into force:~~

~~— (1) On or after July 1, 1949, and before July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;~~
~~or~~

~~— (2) On or after July 1, 1957, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;~~

~~— (b) In the case of any trust agreement which concerns owner-occupied housing as defined in NRS 107.086, the grantor, the person who holds the title of record, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property has, for a period that commences in the manner and subject to the requirements described in subsection 3 and expires 5 days before the date of sale, failed to make good the deficiency in performance or payment;~~

~~— (c) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of the election to sell or cause to be sold the property to satisfy the obligation; and~~

~~— (d) Not less than 3 months have elapsed after the recording of the notice.~~

~~— 3. The 15- or 35-day period provided in paragraph (a) of subsection 2, or the period provided in paragraph (b) of subsection 2, commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor or, to the person who holds the title of record on the date the notice of default and election to sell is recorded, and, if the~~

~~property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must:~~

~~—(a) Describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2; and~~

~~—(b) If the property is a residential foreclosure, comply with the provisions of NRS 107.087.~~

~~—4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:~~

~~—(a) Providing the notice to each trustor, any other person entitled to notice pursuant to this section and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health, by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;~~

~~—(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold;~~

~~—(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated [;] or, if the property is a time share, by posting a copy of the notice on an Internet website and publishing a statement pursuant to the provisions of subsection 3 of NRS 119A.560; and~~

~~—(d) If the property is a residential foreclosure, complying with the provisions of NRS 107.087.~~

~~—5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and any successors in interest without equity or right of redemption. A sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if:~~

~~—(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section or any applicable provision of NRS 107.086 and 107.087;~~

~~—(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and~~

~~—(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.~~

~~—6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.~~

~~—7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.~~

~~—8. After a sale of property is conducted pursuant to this section, the trustee shall:~~

~~—(a) Within 30 days after the date of the sale, record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located; or~~

~~—(b) Within 20 days after the date of the sale, deliver the trustee's deed upon sale to the successful bidder. Within 10 days after the date of delivery of the deed by the trustee, the successful bidder shall record the trustee's deed upon sale in the office of the county recorder of the county in which the property is located.~~

~~—9. If the successful bidder fails to record the trustee's deed upon sale pursuant to paragraph (b) of subsection 8, the successful bidder:~~

~~—(a) Is liable in a civil action to any party that is a senior lienholder against the property that is the subject of the sale in a sum of up to \$500 and for reasonable attorney's fees and the costs of bringing the action; and~~

~~—(b) Is liable in a civil action for any actual damages caused by the failure to comply with the provisions of subsection 8 and for reasonable attorney's fees and the costs of bringing the action.~~

~~—10. The county recorder shall, in addition to any other fee, at the time of recording a notice of default and election to sell collect:~~

~~—(a) A fee of \$150 for deposit in the State General Fund.~~

~~—(b) A fee of \$50 for deposit in the Account for Foreclosure Mediation, which is hereby created in the State General Fund. The Account must be administered by the Court Administrator, and the money in the Account may be expended only for the purpose of supporting a program of foreclosure mediation established by Supreme Court Rule.~~

~~➤ The fees collected pursuant to this subsection must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and, except as otherwise provided in this subsection, must be placed to the credit of the State General Fund or the Account as prescribed pursuant to this subsection. The county recorder may direct that 1.5 percent of the fees collected by the county recorder be~~

~~transferred into a special account for use by the office of the county recorder. The county treasurer shall, on or before the 15th day of each month, remit the fees deposited by the county recorder pursuant to this subsection to the State Controller for credit to the State General Fund or the Account as prescribed in this subsection.~~

~~— 11. The beneficiary, the successor in interest of the beneficiary or the trustee who causes to be recorded the notice of default and election to sell shall not charge the grantor or the successor in interest of the grantor any portion of any fee required to be paid pursuant to subsection 10.~~

~~— 12. As used in this section, "residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence":~~

~~— (a) Means a structure that is comprised of not more than four units.~~

~~— (b) Does not include any time share or other property regulated under chapter 119A of NRS.~~ **(Deleted by amendment.)**

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 200.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 402.

The following Assembly amendment was read:

Amendment No. 740.

"SUMMARY—Revises provisions relating to real property. (BDR 9-1090)"

"AN ACT relating to real property; revising provisions relating to covenants that may be adopted by reference in a deed of trust; providing methods by which assumption fees for a change of parties in a deed of trust may be set; requiring a foreclosure sale of commercial property to be held in a **public** location specified in certain recorded documents; ~~limiting the amount of certain secured interests in foreclosure sales and deficiency judgments;~~ revising provisions relating to accounting for impound accounts for the payment of certain obligations relating to certain real property; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 1 and 2 of this bill amend a statutory covenant that may be adopted by reference in a deed of trust to allow the parties thereto the alternatives of paying, in connection with a trustee's sale, either reasonable counsel fees and actual costs incurred or counsel fees in an amount equal to a specified percentage of the property secured by the deed of trust.

Section 3 of this bill sets forth certain methods of specifying assumption fees for a change in parties in a deed of trust.

Section 4 of this bill requires a foreclosure sale of commercial property to be conducted at the **public** location specified in the notice of sale recorded by the trustee of a trust deed or transfer in trust.

~~[Section 4.5 of this bill revises provisions limiting the amount of certain secured interests included in the term "indebtedness" for the purpose of foreclosure sales and deficiency judgments.]~~

Sections 5 and 6 of this bill revise provisions relating to accountings for impound accounts for the payment of certain obligations relating to certain real property.

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

Section 1. NRS 107.030 is hereby amended to read as follows:

107.030 Every deed of trust made after March 29, 1927, may adopt by reference all or any of the following covenants, agreements, obligations, rights and remedies:

1. COVENANT NO. 1. That grantor agrees to pay and discharge at maturity all taxes and assessments and all other charges and encumbrances which now are or shall hereafter be, or appear to be, a lien upon the trust premises, or any part thereof; and that grantor will pay all interest or installments due on any prior encumbrance, and that in default thereof, beneficiary may, without demand or notice, pay the same, and beneficiary shall be sole judge of the legality or validity of such taxes, assessments, charges or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

2. COVENANT NO. 2. That the grantor will at all times keep the buildings and improvements which are now or shall hereafter be erected upon the premises insured against loss or damage by fire, to the amount of at least \$...., by some insurance company or companies approved by beneficiary, the policies for which insurance shall be made payable, in case of loss, to beneficiary, and shall be delivered to and held by the beneficiary as further security; and that in default thereof, beneficiary may procure such insurance, not exceeding the amount aforesaid, to be effected either upon the interest of trustee or upon the interest of grantor, or his or her assigns, and in their names, loss, if any, being made payable to beneficiary, and may pay and expend for premiums for such insurance such sums of money as the beneficiary may deem necessary.

3. COVENANT NO. 3. That if, during the existence of the trust, there be commenced or pending any suit or action affecting the conveyed premises, or any part thereof, or the title thereto, or if any adverse claim for or against the premises, or any part thereof, be made or asserted, the trustee or beneficiary may appear or intervene in the suit or action and retain counsel therein and defend same, or otherwise take such action therein as they may be advised, and may settle or compromise same or the adverse claim; and in that behalf and for any of the purposes may pay and expend such sums of money as the trustee or beneficiary may deem to be necessary.

4. COVENANT NO. 4. That the grantor will pay to trustee and to beneficiary respectively, on demand, the amounts of all sums of money which they shall respectively pay or expend pursuant to the provisions of the implied covenants of this section, or any of them, together with interest upon each of the amounts, until paid, from the time of payment thereof, at the rate of percent per annum.

5. COVENANT NO. 5. That in case grantor shall well and truly perform the obligation or pay or cause to be paid at maturity the debt or promissory note, and all moneys agreed to be paid, and interest thereon for the security of which the transfer is made, and also the reasonable expenses of the trust in this section specified, then the trustee, its successors or assigns, shall reconvey to the grantor all the estate in the premises conveyed to the trustee by the grantor. Any part of the trust property may be reconveyed at the request of the beneficiary.

6. COVENANT NO. 6. That if default be made in the performance of the obligation, or in the payment of the debt, or interest thereon, or any part thereof, or in the payment of any of the other moneys agreed to be paid, or of any interest thereon, or if any of the conditions or covenants in this section adopted by reference be violated, and if the notice of breach and election to sell, required by this chapter, be first recorded, then trustee, its successors or assigns, on demand by beneficiary, or assigns, shall sell the above-granted premises, or such part thereof as in its discretion it shall find necessary to sell, in order to accomplish the objects of these trusts, in the manner following, namely:

The trustees shall first give notice of the time and place of such sale, in the manner provided in NRS 107.080 and may postpone such sale not more than three times by proclamation made to the persons assembled at the time and place previously appointed and advertised for such sale, and on the day of sale so advertised, or to which such sale may have been postponed, the trustee may sell the property so advertised, or any portion thereof, at public auction, at the time and place specified in the notice, at a public location in the county in which the property, or any part thereof, to be sold, is situated, to the highest cash bidder. The beneficiary, obligee, creditor, or the holder or holders of the promissory note or notes secured thereby may bid and purchase at such sale. The beneficiary may, after recording the notice of breach and election, waive or withdraw the same or any proceedings thereunder, and shall thereupon be restored to the beneficiary's former position and have and enjoy the same rights as though such notice had not been recorded.

7. COVENANT NO. 7. That the trustee, upon such sale, shall make (without warranty), execute and, after due payment made, deliver to purchaser or purchasers, his, her or their heirs or assigns, a deed or deeds of the premises so sold which shall convey to the purchaser all the title of the grantor in the trust premises, and shall apply the proceeds of the sale thereof in payment, firstly, of the expenses of such sale, together with the reasonable

expenses of the trust, including counsel fees, in an amount equal to percent of the amount secured thereby and remaining unpaid ~~to~~ **or reasonable counsel fees and costs actually incurred**, which shall become due upon any default made by grantor in any of the payments aforesaid; and also such sums, if any, as trustee or beneficiary shall have paid, for procuring a search of the title to the premises, or any part thereof, subsequent to the execution of the deed of trust; and in payment, secondly, of the obligation or debts secured, and interest thereon then remaining unpaid, and the amount of all other moneys with interest thereon herein agreed or provided to be paid by grantor; and the balance or surplus of such proceeds of sale it shall pay to grantor, his or her heirs, executors, administrators or assigns.

8. COVENANT NO. 8. That in the event of a sale of the premises conveyed or transferred in trust, or any part thereof, and the execution of a deed or deeds therefor under such trust, the recital therein of default, and of recording notice of breach and election of sale, and of the elapsing of the 3-month period, and of the giving of notice of sale, and of a demand by beneficiary, his or her heirs or assigns, that such sale should be made, shall be conclusive proof of such default, recording, election, elapsing of time, and of the due giving of such notice, and that the sale was regularly and validly made on due and proper demand by beneficiary, his or her heirs and assigns; and any such deed or deeds with such recitals therein shall be effectual and conclusive against grantor, his or her heirs and assigns, and all other persons; and the receipt for the purchase money recited or contained in any deed executed to the purchaser as aforesaid shall be sufficient discharge to such purchaser from all obligation to see to the proper application of the purchase money, according to the trusts aforesaid.

9. COVENANT NO. 9. That the beneficiary or his or her assigns may, from time to time, appoint another trustee, or trustees, to execute the trust created by the deed of trust or other conveyance in trust. A copy of a resolution of the board of directors of beneficiary (if beneficiary be a corporation), certified by the secretary thereof, under its corporate seal, or an instrument executed and acknowledged by the beneficiary (if the beneficiary be a natural person), shall be conclusive proof of the proper appointment of such substituted trustee. Upon the recording of such certified copy or executed and acknowledged instrument, the new trustee or trustees shall be vested with all the title, interest, powers, duties and trusts in the premises vested in or conferred upon the original trustee. If there be more than one trustee, either may act alone and execute the trusts upon the request of the beneficiary, and all of the trustee's acts thereunder shall be deemed to be the acts of all trustees, and the recital in any conveyance executed by such sole trustee of such request shall be conclusive evidence thereof, and of the authority of such sole trustee to act.

Sec. 2. NRS 107.040 is hereby amended to read as follows:

107.040 1. In order to adopt by reference any of the covenants, agreements, obligations, rights and remedies in NRS 107.030, it shall only be

necessary to state in the deed of trust the following: "The following covenants, Nos., ... and (inserting the respective numbers) of NRS 107.030 are hereby adopted and made a part of this deed of trust."

2. A deed of trust or other conveyance in trust, in order to fix the amount of insurance to be carried, need not reincorporate the provisions of Covenant No. 2 of NRS 107.030, but may merely state the following: "Covenant No. 2," and set out thereafter the amount of insurance to be carried.

3. In order to fix the rate of interest under Covenant No. 4 of NRS 107.030, it shall only be necessary to state in such trust deed or other conveyance in trust, "Covenant No. 4," and set out thereafter the rate of interest to be charged thereunder.

4. In order to fix the amount or percent of counsel fees under Covenant No. 7 of NRS 107.030, it shall only be necessary to state in such deed of trust, or other conveyance in trust, the following: "Covenant No. 7," and set out thereafter *either* the percentage to be allowed ~~or~~ ***or, in lieu of the percentage to be allowed, reasonable counsel fees and costs actually incurred.***

Sec. 3. NRS 107.055 is hereby amended to read as follows:

107.055 If a party to a deed of trust, executed after July 1, 1971, desires to charge an assumption fee for a change in parties, the amount of such charge must be clearly set forth in the deed of trust at the time of execution. ***Without limiting or prohibiting any other method by which the amount of the charge may be clearly set forth in the deed of trust, the charge may be set forth as:***

1. ***A fixed sum;***
2. ***A percentage of the amount secured by the deed of trust and remaining unpaid at the time of assumption; or***
3. ***The lesser of, the greater of or some combination of the amounts determined by subsections 1 and 2.***

Sec. 4. NRS 107.081 is hereby amended to read as follows:

107.081 1. All sales of property pursuant to NRS 107.080 must be made at auction to the highest bidder and must be made between the hours of 9 a.m. and 5 p.m. The agent holding the sale must not become a purchaser at the sale or be interested in any purchase at such a sale.

2. All sales of real property must be made:

(a) ***For a residential foreclosure or foreclosure of a residential unit:***

(1) In a county with a population of less than 100,000, at the courthouse in the county in which the property or some part thereof is situated.

~~***(2)***~~ ***(2)*** In a county with a population of 100,000 or more, at the public location in the county designated by the governing body of the county for that purpose.

(b) ***For a foreclosure of commercial property, at a public location in the county in which the property or some part thereof is situated as specified in the notice of sale recorded by the trustee of the trust deed or transfer in trust.***

3. For the purposes of this section:

(a) *"Commercial property" has the meaning ascribed to it in NRS 645E.040.*

(b) *"Residential foreclosure" has the meaning ascribed to it in NRS 107.080.*

(c) *"Residential unit" means a unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.*

Sec. 4.5. ~~NRS 40.451 is hereby amended to read as follows:~~

~~40.451 As used in NRS 40.451 to 40.463, inclusive, "indebtedness" means the principal balance of the obligation secured by a mortgage or other lien on real property, together with [all]—~~

~~1. All interest accrued and unpaid prior to the time of foreclosure sale [; all]—~~

~~2. All costs and fees of such a sale [; all]—~~

~~3. All advances made with respect to the property by the beneficiary [;] and [all]~~

~~4. All other amounts secured by the mortgage or other lien on the real property in favor of the person seeking the deficiency judgment. Such [amount constituting a lien is] other amounts are limited to the amount [of the consideration] paid by the lienholder [;] or the predecessor of the lienholder.] (Deleted by amendment.)~~

Sec. 5. NRS 100.091 is hereby amended to read as follows:

100.091 1. For each loan requiring the deposit of money to an escrow account, loan trust account or other impound account for the payment of taxes, assessments, rental or leasehold payments, ~~[or fire, hazard or other]~~ insurance premiums ~~[;]~~ *or other obligations related to the encumbered property*, the lender shall ~~[; at] :~~

(a) *Require contributions in an amount reasonably necessary to pay the obligations as they become due.*

(b) *Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.*

(c) *At least annually, analyze the account. The analysis of each account must be performed to determine whether sufficient money is contributed to the account on a monthly basis to pay for the projected disbursements from the account. At least 30 days before the effective date of any increased contribution to the account based on the analysis, a statement must be sent to the borrower showing the method of determining the amount of money held in the account, the amount of projected disbursements from the account and the amount of the reserves which may be held in accordance with federal guidelines.*

2. If, upon completion of the analysis, it is determined that an account is not sufficiently funded to pay from the normal payment the items when due on the account, the lender shall offer the borrower the opportunity to correct the deficiency by making one lump-sum payment or by making increased

monthly contributions, in an amount required by the lender. The lender shall not declare a default on the account solely because the borrower is unable to pay the amount of the deficiency in one lump sum.

3. *Except for payments made by a borrower for a lender to recover previous deficiencies in contributions to the account pursuant to subsection 2, the borrower is entitled pursuant to subsection 4 to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.*

4. If, upon completion of the analysis, it is determined that the amount of money held by the lender in the account, together with anticipated future monthly contributions to the account to be credited to the account before the dates items are due on the account, exceed the amount of money required to pay the items when due, the lender shall, ~~at the option of~~ *not later than 30 days after completion of its annual review of the account, notify the borrower:*

(a) Of the amount by which the contributions and interest earned pursuant to subsection 3 exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(b) That the borrower ~~is either repay~~ may, not later than 20 days after receipt of the notice, specify that the lender:

(1) Repay the excess money and interest promptly to the borrower ~~is apply~~;

(2) Apply the excess money and interest to the outstanding principal balance ; or ~~retain~~

(3) Retain the excess money and interest in the account.

5. *If the borrower fails to specify the disposition of the excess money and interest as provided in paragraph (b) of subsection 4, the lender shall maintain the excess money and interest in the account.*

6. If any payment on the loan is delinquent at the time of the analysis, the lender shall retain any excess money *and interest* in the account and apply the *excess* money *and interest* in the account toward payment of the delinquency.

~~4.7~~ 7. *A lender who violates any provision of subsections 4, 5 and 6 is liable to the borrower for a civil penalty of not more than \$1,000.*

8. *The provisions of this section apply exclusively to:*

(a) A loan secured by a single family residence, as that term is defined in NRS 107.080; and

(b) A unit in a common-interest community that is used exclusively for residential use, as those terms are defined in chapter 116 of NRS.

9. As used in this section:

(a) "Borrower" means any person who receives a loan secured by real property and who is required to make advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

(b) "Lender" means any person who makes loans secured by real property and who requires advance contributions for the payment of taxes, insurance premiums or other expenses related to the property.

Sec. 6. NRS 106.105 is hereby repealed.

TEXT OF REPEALED SECTION

106.105 Contributions; payment of obligations; notice regarding and disposition of excess money; civil penalty.

1. Except as otherwise provided in subsection 2, a lender who requires a borrower to make advance contributions to an impound trust account, or an account of similar name, for the payment of taxes, insurance premiums or other obligations related to the encumbered property shall:

(a) Require contributions in an amount reasonably necessary to pay the obligations as they become due.

(b) Unless money in the account is insufficient, pay in a timely manner the obligations as they become due.

(c) Within 30 days after the completion of its annual review of the account, notify the borrower:

(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(2) That the borrower may specify the disposition of the excess money within 20 days after receipt of the notice. If the borrower fails to specify such a disposition within that time, the lender shall maintain the excess money in the account.

➤ A lender who violates any provision of this subsection is liable to the borrower for a civil penalty of not more than \$1,000.

2. A lender, to recover previous deficiencies in contributions to an impound trust account, may require contributions to the account in an amount greater than that reasonably necessary to pay the obligations as they become due. The borrower is otherwise entitled to the amount by which the borrower's contributions to the account exceed the amount reasonably necessary to pay the annual obligations due from the account, together with interest thereon at the rate established pursuant to NRS 99.040.

3. As used in this section:

(a) "Borrower" means a mortgagor, grantor of a deed of trust or other obligor on a loan secured by a lien upon real property.

(b) "Lender" means a mortgagee, beneficiary of a deed of trust or other obligee on a loan secured by a lien upon real property, and his or her successor in interest.

Senator Wiener moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 402.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 249.

The following Assembly amendment was read:

Amendment No. 838.

"SUMMARY—Makes various changes relating to administration of taxes on property. (BDR 32-793)"

"AN ACT relating to the taxation of property; revising the provisions governing the administration of certain exemptions from taxation, the determination of the taxable value of the community units of a common-interest community, the conversion of mobile or manufactured homes from real to personal property, the issuance of certain notices by the county assessor and county treasurer, the payment of taxes on personal property in installments, and the determination of when an overpayment of taxes on personal property will not be refunded or a deficiency in the payment of such taxes will be exempted from collection; postponing the prospective expiration of certain provisions for the funding of accounts for the acquisition and improvement of technology in the offices of county assessors and revising the authorized uses of such accounts; repealing certain requirements relating to the minimum valuation of certain land; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides various exemptions from property taxes for surviving spouses, persons who are blind and veterans, if the persons claiming the exemptions are bona fide residents of this State, and requires the county assessors to mail annually to each person who claims such an exemption a form for the renewal of the exemption. (NRS 361.080, 361.085, 361.090, 361.091) **Section 1** of this bill clarifies that these tax exemptions do not apply to a person who holds an identification card indicating that the person is only a seasonal resident of this State, unless the person has actually resided in Nevada for at least 6 months. **Sections 2-5** of this bill authorize the county assessors to provide, upon request, the forms for renewal by electronic means and to authorize the return of those forms by electronic means.

Under existing law, the taxable value of the common elements of a common-interest community must be allocated on an equal basis to each of the community units of that common-interest community. (NRS 361.233) **Section 6** of this bill instead requires, under certain conditions, the allocation of that taxable value to the community units in accordance with a formula for allocation set forth in the declaration creating the common-interest community or, if there is no such declaration, in the recorded deeds for the community units.

Under existing law, a mobile or manufactured home may not be converted from real to personal property and removed from the real property to which it is affixed unless the county assessor certifies that the current taxes on that home and real property have been paid. (NRS 361.2445) **Section 7** of this bill instead requires this certification from the county tax receiver.

Existing law requires each board of county commissioners to pass a resolution during each fiscal year which directs the county assessor to

prepare a secured tax roll of taxable property in the county. The resolution must further direct the county assessor to mail a copy of the secured tax roll to each taxpayer in the county and publish the secured tax roll in a newspaper of general circulation in the county. Existing law also requires the county assessor to issue certain notices indicating that the secured tax roll is complete and available for inspection. (NRS 361.300) Section 9.5 of this bill requires the county assessor to, pursuant to a resolution adopted by the board of county commissioners, additionally post the secured tax roll in certain public areas, post the secured tax roll at the office of the county assessor and publish the secured tax roll on an Internet website maintained by the county assessor or the county. In addition, section 9.5 requires that notices to the effect that the secured tax roll is complete and open for inspection also indicate the locations at which the secured tax roll is available for inspection.

Existing law requires a county tax receiver to publish certain notices of delinquent taxes in a newspaper of general circulation in the county or, if no such newspaper exists, in at least five conspicuous places in the county. (NRS 361.565) Section 11.5 of this bill requires the county tax receiver to additionally publish such notices of delinquency on an Internet website maintained by the county treasurer or the county.

Existing law authorizes a taxpayer, upon request, to pay the personal property taxes imposed on the property of a business in installments if the total taxes exceed \$10,000 and certain other conditions are met. (NRS 361.483) **Section 10** of this bill revises this authorization to include the taxes imposed on personal property which is not the property of a business, to require the total amount of taxes to exceed \$5,000 and to allow the installment payments only if the pertinent tax bill is issued on or before September 15.

Under existing law, an overpayment of personal property taxes in an amount which is less than the average cost of collecting taxes in this State must be paid into the county general fund unless the taxpayer requests a refund within 6 months, and a deficiency in the payment of personal property taxes must be exempted from collection efforts if the deficiency is less than that average cost of collecting taxes. (NRS 361.485) **Section 11** of this bill requires, when calculating the amount paid to determine the existence and amount of such an overpayment or deficiency, the inclusion of the amount of any applicable penalties paid and the amount of any applicable partial abatements of taxes.

Existing law provides various exemptions from the governmental services taxes otherwise due on vehicles of surviving spouses, persons who are blind and veterans and requires the county assessors to mail annually to each person who claims such an exemption a form for the renewal of the exemption. (NRS 371.101, 371.102, 371.103, 371.104) **Sections 12-15** of

this bill authorize the county assessors to provide, upon request, the forms for renewal by electronic means.

Under existing law, 2 percent of the property taxes collected for each county on personal property and the net proceeds of mines must be deposited into an account for the acquisition and improvement of technology in the office of the county assessor. (NRS 361.530, 362.170) **Section 16** of this bill provides for the continuation of this funding during the next biennium by postponing its prospective expiration until June 30, 2013. **Section 15.5** of this bill revises the authorized uses of the money in such an account.

Existing law requires persons who desire to claim a property tax exemption for personal property which is in transit through this State to make their claims in the form and manner prescribed by the regulations of the Department of Taxation. (NRS 361.170) Existing law also requires county assessors to assess all patented land and land held under a state land contract at a minimum rate of \$1.25 per acre and requires county assessors to pay the difference between that amount and the amount of any lower assessments of that land. (NRS 361.230) **Section 17** of this bill repeals these requirements.

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

Section 1. NRS 361.015 is hereby amended to read as follows:

361.015 "Bona fide resident" means a person who ~~has~~:

~~1. Established~~ :

1. *Has established* a residence in the State of Nevada; and

2. ~~Actually~~ *Has*:

(a) *Actually* resided in this state for at least 6 months ; or ~~has a~~

(b) *A* valid driver's license or identification card issued by the Department of Motor Vehicles of this state ~~+~~ , ***other than such an identification card which indicates that the person is a seasonal resident.***

Sec. 2. NRS 361.080 is hereby amended to read as follows:

361.080 1. The property of surviving spouses, not to exceed the amount of \$1,000 assessed valuation, is exempt from taxation, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State to the same family.

2. For the purpose of this section, property in which the surviving spouse has any interest shall be deemed the property of the surviving spouse.

3. The person claiming such an exemption must file with the county assessor an affidavit declaring that the person is a bona fide resident of this State and that the exemption has been claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may***

provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

6. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 3. NRS 361.085 is hereby amended to read as follows:

361.085 1. The property of each person who is blind, not to exceed the amount of \$3,000 of assessed valuation, is exempt from taxation, including community property to the extent only of the interest therein of the person who is blind, but no such exemption may be allowed to anyone but a bona fide resident of this State, and must be allowed in but one county in this State on account of the same person.

2. The person claiming such an exemption must file with the county assessor an affidavit declaring that the person is a bona fide resident of the State of Nevada who meets all the other requirements for the exemption and that the exemption is not claimed in any other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection,*** mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.***

3. Upon first claiming the exemption in a county the claimant shall furnish to the assessor a certificate of a licensed physician setting forth that the physician has examined the claimant and has found him or her to be a person who is blind.

4. If any person files a false affidavit or provides false proof to the county assessor or a notary public and, as a result of the false affidavit or

false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

5. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

6. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20°.

Sec. 4. NRS 361.090 is hereby amended to read as follows:

361.090 1. The property, to the extent of \$2,000 assessed valuation, of any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 continuous days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(c) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty,

➤ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 assessed valuation of property in which an applicant has any interest shall be deemed the property of the applicant.

3. The exemption may be allowed only to a claimant who files an affidavit with his or her claim for exemption on real property pursuant to NRS 361.155. The affidavit may be filed at any time by a person claiming exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada who meets all the other

requirements of subsection 1 and that the exemption is not claimed in any other county in this State. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

↳ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

5. Persons in actual military service are exempt during the period of such service from filing the annual forms for renewal of the exemption, and the county assessors shall continue to grant the exemption to such persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

6. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the county assessor shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

7. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 5. NRS 361.091 is hereby amended to read as follows:

361.091 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to an exemption.

2. The amount of exemption is based on the total percentage of permanent service-connected disability. The maximum allowable exemption

for total permanent disability is the first \$20,000 assessed valuation. A person with a permanent service-connected disability of:

(a) Eighty to 99 percent, inclusive, is entitled to an exemption of \$15,000 assessed value.

(b) Sixty to 79 percent, inclusive, is entitled to an exemption of \$10,000 assessed value.

➤ For the purposes of this section, any property in which an applicant has any interest is deemed to be the property of the applicant.

3. The exemption may be allowed only to a claimant who has filed an affidavit with his or her claim for exemption on real property pursuant to NRS 361.155. The affidavit may be made at any time by a person claiming an exemption from taxation on personal property.

4. The affidavit must be made before the county assessor or a notary public and be filed with the county assessor. It must state that the affiant is a bona fide resident of the State of Nevada, that the affiant meets all the other requirements of subsection 1 and that the exemption is not claimed in any other county within this State. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➤ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. *If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.*

5. Before allowing any exemption pursuant to the provisions of this section, the county assessor shall require proof of the applicant's status, and for that purpose shall require the applicant to produce an original or certified copy of:

(a) An honorable discharge or other document of honorable separation from the Armed Forces of the United States which indicates the total percentage of his or her permanent service-connected disability;

(b) A certificate of satisfactory service which indicates the total percentage of his or her permanent service-connected disability; or

(c) A certificate from the Department of Veterans Affairs or any other military document which shows that he or she has incurred a permanent service-connected disability and which indicates the total percentage of that disability, together with a certificate of honorable discharge or satisfactory service.

6. A surviving spouse claiming an exemption pursuant to this section must file with the county assessor an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran who incurred a permanent service-connected disability for the 5 years preceding his or her death;

(b) The veteran was eligible for the exemption at the time of his or her death or would have been eligible if the veteran had been a resident of the State of Nevada;

(c) The surviving spouse has not remarried; and

(d) The surviving spouse is a bona fide resident of the State of Nevada.

➤ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 4 and 5. After the filing of the original affidavit required by this subsection, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail. The county assessor may authorize the return of the form by electronic means in accordance with the provisions of chapter 719 of NRS.***

7. If a veteran or the surviving spouse of a veteran submits, as proof of disability, documentation that indicates a percentage of permanent service-connected disability for more than one permanent service-connected disability, the amount of the exemption must be based on the total of those combined percentages, not to exceed 100 percent.

8. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 361.090.

9. If any person files a false affidavit or produces false proof to the county assessor or a notary public and, as a result of the false affidavit or false proof, the person is allowed a tax exemption to which the person is not entitled, the person is guilty of a gross misdemeanor.

10. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsection 2 must be adjusted for each fiscal year by adding to the amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from July 2003 to the July preceding the fiscal year for which the adjustment is calculated. The Department shall provide to each county assessor the adjusted amount, in writing, on or before September 30 of each year.

Sec. 6. NRS 361.233 is hereby amended to read as follows:

361.233 1. Notwithstanding any other provision of law:

(a) Any ad valorem taxes or special assessments assessed upon any real property within a common-interest community:

(1) Must be assessed upon the community units and not upon the common-interest community as a whole; and

(2) Must not be assessed upon any common elements of the common-interest community.

(b) ~~{The}~~ *Except as otherwise provided in subsection 2, the taxable value of each parcel:*

- (1) Composed solely of a community unit must consist of:
 - (I) The taxable value of that community unit; and
 - (II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community; or
- (2) Composed of a community unit and any portion of the common elements of the common-interest community must consist of:
 - (I) The taxable value of that community unit only; and
 - (II) A percentage of the taxable value of all the common elements of that common-interest community which is equal to 1 divided by the total number of community units in that common-interest community.

2. *If the declaration for a common-interest community or, in the absence of such a declaration, the recorded deeds for the community units of a common-interest community:*

(a) Provide for the allocation to the community units of, except for any minor variations because of rounding, all the interests in the common elements of the common-interest community; or

(b) Do not provide for the allocation described in paragraph (a) but provide for the allocation to the community units of, except for any minor variations because of rounding, all the liabilities for the common expenses of the common-interest community,

↪ and the formula for allocation provided in the declaration or deeds differs from the formula for allocation set forth in sub-subparagraph (II) of subparagraph (1) of paragraph (b) of subsection 1 and sub-subparagraph (II) of subparagraph (2) of paragraph (b) of subsection 1, those sub-subparagraphs do not apply to the common-interest community, and the taxable value of the common elements of the common-interest community must be allocated to the community units in accordance with the formula for allocation provided in the declaration or deeds.

3. The Nevada Tax Commission shall adopt such regulations as it determines to be appropriate to ensure that this section is carried out in a uniform and equal manner that does not result in the double taxation of any common elements of a common-interest community.

~~{3-}~~ 4. For the purposes of this section:

(a) "Ad valorem tax" means an ad valorem tax levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

(b) "Common elements" means the physical portion of a common-interest community, including, without limitation, any landscaping, swimming pools, fitness centers, community centers, maintenance and service areas, parking areas, hallways, elevators and mechanical rooms, which is:

(1) Intended for the general benefit of and potential use by all the owners of the community units and their invitees; and

(2) Owned:

(I) By the community association;

(II) By any person on behalf or for the benefit of the owners of the community units; or

(III) Jointly by the owners of the community units.

(c) "Common-interest community" means real property with respect to which a person, by virtue of his or her ownership of a community unit, is obligated to pay for any real property other than that unit. The term includes a common-interest community governed by the provisions of chapter 116 of NRS, a condominium hotel governed by the provisions of chapter 116B of NRS, a condominium project governed by the provisions of chapter 117 of NRS and any time-share project, planned unit development or other real property which is organized as a common-interest community in this State.

(d) "Community association" means an association whose membership:

(1) Consists exclusively of the owners of the community units or their elected or appointed representatives; and

(2) Is a required condition of the ownership of a community unit.

(e) "Community unit" means a physical portion of a common-interest community, other than the common elements, which is:

(1) Designated for separate ownership or occupancy; and

(2) Intended for:

(I) Residential use by the owner of that unit and his or her invitees; or

(II) Commercial use by the owner of that unit for the generation of revenue from any persons other than the owners of community units in that common-interest community and their invitees.

(f) ***"Declaration" means any instrument, however denominated, that creates a common-interest community, including any amendment to an instrument.***

(g) "Special assessment" means a special assessment levied by any governmental entity or political subdivision in this State on or after July 1, 2006.

Sec. 7. NRS 361.2445 is hereby amended to read as follows:

361.2445 1. A mobile or manufactured home which has been converted to real property pursuant to NRS 361.244 may not be removed from the real property to which it is affixed unless, at least 30 days before removing the mobile or manufactured home:

(a) The owner:

(1) Files with the Division an affidavit stating that the sole purpose for converting the mobile or manufactured home from real to personal property is to effect a transfer of the title to the mobile or manufactured home;

(2) Files with the Division the affidavit of consent to the removal of the mobile or manufactured home of each person who holds any legal interest in the real property to which the mobile or manufactured home is affixed; and

(3) Gives written notice to the county assessor of the county in which the real property is situated; and

(b) The county ~~assessor~~ **tax receiver** certifies in writing that all taxes for the fiscal year on the mobile or manufactured home and the real property to which the mobile or manufactured home is affixed have been paid.

2. The county assessor shall not remove a mobile or manufactured home from the tax rolls until:

(a) The county assessor has received verification that there is no security interest in the mobile or manufactured home or the holders of security interests have agreed in writing to the conversion of the mobile or manufactured home to personal property; and

(b) An affidavit of conversion of the mobile or manufactured home from real to personal property has been recorded in the county recorder's office of the county in which the real property to which the mobile or manufactured home was affixed is situated.

3. A mobile or manufactured home which is physically removed from real property pursuant to this section shall be deemed to be personal property immediately upon its removal.

4. The Department shall adopt:

(a) Such regulations as are necessary to carry out the provisions of this section; and

(b) A standard form for the affidavits required by this section.

5. Before the owner of a mobile or manufactured home that has been converted to personal property pursuant to this section may transfer ownership of the mobile or manufactured home, he or she must obtain a certificate of ownership from the Division.

6. For the purposes of this section, the removal of a mobile or manufactured home from real property includes the detachment of the mobile or manufactured home from its foundation, other than temporarily for the purpose of making repairs or improvements to the mobile or manufactured home or the foundation.

7. An owner who physically removes a mobile or manufactured home from real property in violation of this section is liable for all legal costs and fees, plus the actual expenses, incurred by a person who holds any interest in the real property to restore the real property to its former condition. Any judgment obtained pursuant to this section may be recorded as a lien upon the mobile or manufactured home so removed.

8. As used in this section:

(a) "Division" means the Manufactured Housing Division of the Department of Business and Industry.

(b) "Owner" means any person who holds an interest in the mobile or manufactured home or the real property to which the mobile or manufactured home is affixed evidenced by a conveyance or other instrument which transfers that interest to him or her and is recorded in the office of the county recorder of the county in which the mobile or manufactured home and real

property are situated, but does not include the owner or holder of a right-of-way, easement or subsurface property right appurtenant to the real property.

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 9.5. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the secured tax roll is completed and open for inspection by interested persons of the county. **A notice issued pursuant to this subsection must include a statement that the secured tax roll is available for inspection as specified in paragraphs (b), (c), (d) and (e) of subsection 3. The statement published in the newspaper must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.**

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow the county assessor a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. Except as otherwise provided in subsection 4, each board of county commissioners shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes. ~~and~~ **A resolution adopted pursuant to this subsection must also** direct the county assessor ~~to~~

~~(a) To~~ **to** cause such list and valuations to be ~~printed~~ **:**

(a) Printed and delivered by the county assessor or mailed by him or her on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; ~~for~~

~~(b) To cause such list and valuations to be published~~ **Published** once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county. ~~for~~

~~In addition to complying with paragraph (a) or (b), the list and valuations may also be posted~~ **:**

(c) Posted in a public area of the public libraries and branch libraries located in the county. ~~in a public area of the county courthouse and the county office building in which the county assessor's office is located,~~ **:**

(d) Posted at the office of the county assessor; and

(e) Published on ~~at~~ **an Internet** website ~~for other Internet site that is operated or administered by or on behalf of the county or~~ **that is maintained by the county assessor** ~~or, if the county assessor does not maintain an Internet website, on an Internet website that is maintained by the county.~~

4. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as

provided in paragraph (a) of subsection 3, to taxpayers whose property is assessed at \$1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his or her assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.

5. The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this section on a claim to be allowed and paid as are other claims against the county.

6. Whenever:

(a) Any property on the secured tax roll is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal. **A notice issued pursuant to this paragraph must include a statement that the secured tax roll is available for inspection as specified in paragraphs (b), (c), (d) and (e) of subsection 3. If such a statement is published in a newspaper, the statement must be displayed in the format used for advertisements and printed in at least 10-point bold type or font.**

(b) Any personal property billed on the unsecured tax roll is appraised or reappraised pursuant to NRS 361.260, the delivery or mailing to the owner of such property of an individual tax bill or individual tax notice for the property shall be deemed to constitute adequate notice to the owner of the assessed valuation of the property as determined from the appraisal or reappraisal.

7. If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site, if any, that is operated or administered by or on behalf of the county or the county assessor.

Sec. 10. NRS 361.483 is hereby amended to read as follows:

361.483 1. Except as otherwise provided in ~~subsection 6~~ **this section** and NRS 361.736 to 361.7398, inclusive, taxes assessed upon the real

property tax roll and upon mobile or manufactured homes are due on the third Monday of August.

2. Taxes assessed upon the real property tax roll may be paid in four approximately equal installments if the taxes assessed on the parcel exceed \$100.

3. Except as otherwise provided in this section, taxes assessed upon a mobile or manufactured home may be paid in four installments if the taxes assessed exceed \$100.

4. If a taxpayer owns at least 25 mobile or manufactured homes in a county that are leased for commercial purposes, and those mobile or manufactured homes have not been converted to real property pursuant to NRS 361.244, taxes assessed upon those homes may be paid in four installments if, not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265.

5. Except as otherwise provided in this section and NRS 361.505, taxes assessed upon personal property may be paid in four approximately equal installments if:

(a) The total personal property taxes assessed exceed ~~[\$10,000;]~~ **\$5,000;**

(b) Not later than July 31, the taxpayer returns to the county assessor the written statement of personal property required pursuant to NRS 361.265;

(c) The taxpayer files with the county assessor, or county treasurer if the county treasurer has been designated to collect taxes, a written request to be billed in ~~quarterly~~ installments and includes with the request a copy of the written statement of personal property required pursuant to NRS 361.265; ~~and~~

(d) The *owner of the* personal property assessed ~~is the property of a business and the business~~ has paid ~~its~~ **all the** personal property taxes **assessed on the property** without accruing penalties for the immediately preceding 2 fiscal years in any county in the State ~~[-]; and~~

(e) Not later than September 15, the county tax receiver issues to the taxpayer an individual tax bill for the personal property which itemizes the dates on which the installments are due. If that tax bill is issued on or after August 1 and on or before September 15, the first two installments are due on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.

6. ~~[[~~ *Except as otherwise provided in subsection 5, if* a person elects to pay in installments, the first installment is due on the third Monday of August, the second installment on the first Monday of October, the third installment on the first Monday of January, and the fourth installment on the first Monday of March.

7. If any person charged with taxes which are a lien on real property fails to pay:

(a) Any one installment of the taxes on or within 10 days following the day the taxes become due, there must be added thereto a penalty of 4 percent.

(b) Any two installments of the taxes, together with accumulated penalties, on or within 10 days following the day the later installment of taxes becomes due, there must be added thereto a penalty of 5 percent of the two installments due.

(c) Any three installments of the taxes, together with accumulated penalties, on or within 10 days following the day the latest installment of taxes becomes due, there must be added thereto a penalty of 6 percent of the three installments due.

(d) The full amount of the taxes, together with accumulated penalties, on or within 10 days following the first Monday of March, there must be added thereto a penalty of 7 percent of the full amount of the taxes.

8. Any person charged with taxes which are a lien on a mobile or manufactured home who fails to pay the taxes within 10 days after an installment payment is due is subject to the following provisions:

(a) A penalty of 10 percent of the taxes due; and

(b) The county assessor may proceed under NRS 361.535.

9. If any property tax postponed pursuant to NRS 361.736 to 361.7398, inclusive, becomes due and payable and the person charged with that tax fails to make the required payment within 10 days after it becomes due, there must be added thereto a penalty of 7 percent of the amount of the tax that is due. If the required payment is not paid within 30 days after it becomes due, there must be added thereto all penalties and interest that would have accrued had the property tax not been postponed pursuant to NRS 361.736 to 361.7398, inclusive.

10. The ex officio tax receiver of a county shall notify each person in the county who is subject to a penalty pursuant to this section of the provisions of NRS 360.419 and 361.4835.

Sec. 11. NRS 361.485 is hereby amended to read as follows:

361.485 1. Whenever any tax is paid to the ex officio tax receiver, he or she shall appropriately record the payment and the date thereof on the tax roll contiguously with the name of the person or the description of the property liable for the taxes, and shall give a receipt for the payment if requested by the taxpayer.

2. If the assessment roll is maintained on magnetic storage files in a computer system, the requirement of subsection 1 is met if the system is capable of producing, as printed output, the assessment roll with the dates of payments shown opposite the name of the person or the description of the property liable for the taxes.

3. If the amount of taxes *and penalties* paid on personal property ~~is~~ , *together with the amount of any partial abatements of those taxes to which the taxpayer may be entitled:*

(a) Results in an overpayment that is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of

the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on money deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency, the amount of the deficiency, other than a payment for a penalty, must be exempted from collection if the amount of the deficiency is less than the average cost of collecting property taxes in this State as determined by the Nevada Tax Commission.

4. If the amount of taxes paid on real property:

(a) Results in an overpayment that does not exceed the amount due by more than \$5, the ex officio tax receiver shall pay the amount of the overpayment into the county treasury for the benefit of the general fund of the county, unless the taxpayer who made the overpayment requests a refund within 6 months after the original payment. All interest paid on money deposited in the county treasury pursuant to this paragraph is the property of the county.

(b) Results in a deficiency that is \$5 or less than the amount due, the ex officio tax receiver may exempt the amount of the deficiency from collection.

Sec. 11.5. NRS 361.565 is hereby amended to read as follows:

361.565 1. Except as otherwise provided in subsection 3, if the tax remains delinquent 30 days after the first Monday in April of each year, the tax receiver of the county shall cause notice of the delinquency to be published ~~for~~ :

(a) At least once in the newspaper which publishes the list of taxpayers pursuant to NRS 361.300. If there is no newspaper in the county, the notice must be posted in at least five conspicuous places within the county.

(b) On an Internet website that is maintained by the county treasurer or, if the county treasurer does not maintain an Internet website, on an Internet website maintained by the county.

2. The cost of publication in each case must be charged to the delinquent taxpayer, and is not a charge against the State or county. The publication must be made at not more than legal rates.

3. If the delinquent property consists of unimproved real estate assessed at a sum not exceeding \$25, the notice must be given by posting a copy of the notice in three conspicuous places within the county without publishing the notice in a newspaper.

4. The notice must contain the information required for a notice ~~mailed~~ of delinquency pursuant to subsection 2 of NRS 361.5648.

Sec. 12. NRS 371.101 is hereby amended to read as follows:

371.101 1. Vehicles registered by surviving spouses, not to exceed the amount of \$1,000 determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but actual bona fide residents of this State, and must be filed in but one county in this State to the same family.

2. For the purpose of this section, vehicles in which the surviving spouse has any interest shall be deemed to belong entirely to that surviving spouse.

3. The person claiming the exemption shall file with the Department in the county where the exemption is claimed an affidavit declaring his or her residency and that the exemption has been claimed in no other county in this State for that year. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.***

4. A surviving spouse is not entitled to the exemption provided by this section in any fiscal year beginning after any remarriage, even if the remarriage is later annulled.

5. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 13. NRS 371.102 is hereby amended to read as follows:

371.102 1. Vehicles registered by a person who is blind, not to exceed the amount of \$3,000 determined valuation, are exempt from taxation, but the exemption must not be allowed to anyone but bona fide residents of this State, and must be filed in but one county in this State on account of that person.

2. The person claiming the exemption must file with the county assessor of the county where the exemption is claimed an affidavit declaring that the person is an actual bona fide resident of the State of Nevada, that he or she is a person who is blind and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in accordance with the provisions of chapter 719 of NRS.***

3. Upon first claiming the exemption in a county, the claimant shall furnish to the county assessor a certificate of a physician licensed under the laws of this State setting forth that the physician has examined the claimant and has found him or her to be a person who is blind.

4. Beginning with the 2005-2006 Fiscal Year, the monetary amount in subsection 1 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

5. As used in this section, "person who is blind" includes any person whose visual acuity with correcting lenses does not exceed 20/200 in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than 20 degrees.

Sec. 14. NRS 371.103 is hereby amended to read as follows:

371.103 1. Vehicles, to the extent of \$2,000 determined valuation, registered by any actual bona fide resident of the State of Nevada who:

(a) Has served a minimum of 90 days on active duty, who was assigned to active duty at some time between April 21, 1898, and June 15, 1903, or between April 6, 1917, and November 11, 1918, or between December 7, 1941, and December 31, 1946, or between June 25, 1950, and May 7, 1975, or between September 26, 1982, and December 1, 1987, or between October 23, 1983, and November 21, 1983, or between December 20, 1989, and January 31, 1990, or between August 2, 1990, and April 11, 1991, or between December 5, 1992, and March 31, 1994, or between November 20, 1995, and December 20, 1996;

(b) Has served a minimum of 90 continuous days on active duty none of which was for training purposes, who was assigned to active duty at some time between January 1, 1961, and May 7, 1975;

(c) Has served on active duty in connection with carrying out the authorization granted to the President of the United States in Public Law 102-1; or

(d) Has served on active duty in connection with a campaign or expedition for service in which a medal has been authorized by the Government of the United States, regardless of the number of days served on active duty,

➤ and who received, upon severance from service, an honorable discharge or certificate of satisfactory service from the Armed Forces of the United States, or who, having so served, is still serving in the Armed Forces of the United States, is exempt from taxation.

2. For the purpose of this section, the first \$2,000 determined valuation of vehicles in which such a person has any interest shall be deemed to belong to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is an actual bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county in this State. The affidavit must be made before the county assessor or a notary public. After the filing of the original affidavit, the county assessor shall , *except as otherwise provided in this subsection*, mail a form for:

(a) The renewal of the exemption; and
(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,
➔ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.***

4. Persons in actual military service are exempt during the period of such service from filing annual affidavits of exemption and the Department shall grant exemptions to those persons on the basis of the original affidavits filed. In the case of any person who has entered the military service without having previously made and filed an affidavit of exemption, the affidavit may be filed in his or her behalf during the period of such service by any person having knowledge of the facts.

5. Before allowing any veteran's exemption pursuant to the provisions of this chapter, the Department shall require proof of status of the veteran, and for that purpose shall require production of an honorable discharge or certificate of satisfactory service or a certified copy thereof, or such other proof of status as may be necessary.

6. If any person files a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof a tax exemption is allowed to a person not entitled to the exemption, the person is guilty of a gross misdemeanor.

7. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 15. NRS 371.104 is hereby amended to read as follows:

371.104 1. A bona fide resident of the State of Nevada who has incurred a permanent service-connected disability and has been honorably discharged from the Armed Forces of the United States, or his or her surviving spouse, is entitled to a veteran's exemption from the payment of governmental services taxes on vehicles of the following determined valuations:

(a) If he or she has a disability of 100 percent, the first \$20,000 of determined valuation.

(b) If he or she has a disability of 80 to 99 percent, inclusive, the first \$15,000 of determined valuation.

(c) If he or she has a disability of 60 to 79 percent, inclusive, the first \$10,000 of determined valuation.

2. For the purpose of this section, the first \$20,000 of determined valuation of vehicles in which an applicant has any interest shall be deemed to belong entirely to that person.

3. A person claiming the exemption shall file annually with the Department in the county where the exemption is claimed an affidavit declaring that he or she is a bona fide resident of the State of Nevada who meets all the other requirements of subsection 1 and that the exemption is claimed in no other county within this State. After the filing of the original affidavit, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for:

(a) The renewal of the exemption; and

(b) The designation of any amount to be credited to the Gift Account for Veterans' Homes established pursuant to NRS 417.145,

➤ to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.***

4. Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of:

(a) A certificate from the Department of Veterans Affairs that the veteran has incurred a permanent service-connected disability, which shows the percentage of that disability; and

(b) Any one of the following:

(1) An honorable discharge;

(2) A certificate of satisfactory service; or

(3) A certified copy of either of these documents.

5. A surviving spouse claiming an exemption pursuant to this section must file with the Department in the county where the exemption is claimed an affidavit declaring that:

(a) The surviving spouse was married to and living with the veteran with a disability for the 5 years preceding his or her death;

(b) The veteran with a disability was eligible for the exemption at the time of his or her death; and

(c) The surviving spouse has not remarried.

➤ The affidavit required by this subsection is in addition to the certification required pursuant to subsections 3 and 4. After the filing of the original affidavit required by this subsection, the county assessor shall , ***except as otherwise provided in this subsection***, mail a form for renewal of the exemption to the person each year following a year in which the exemption was allowed for that person. The form must be designed to facilitate its return by mail by the person claiming the exemption. ***If so requested by the person claiming the exemption, the county assessor may provide the form to the person by electronic means in lieu of by mail.***

6. If a tax exemption is allowed under this section, the claimant is not entitled to an exemption under NRS 371.103.

7. If any person makes a false affidavit or produces false proof to the Department, and as a result of the false affidavit or false proof the person is allowed a tax exemption to which he or she is not entitled, the person is guilty of a gross misdemeanor.

8. Beginning with the 2005-2006 Fiscal Year, the monetary amounts in subsections 1 and 2 must be adjusted for each fiscal year by adding to each amount the product of the amount multiplied by the percentage increase in the Consumer Price Index (All Items) from December 2003 to the December preceding the fiscal year for which the adjustment is calculated.

Sec. 15.5. NRS 250.085 is hereby amended to read as follows:

250.085 1. The board of county commissioners of each county shall by ordinance create in the county general fund an account to be designated as the Account for the Acquisition and Improvement of Technology in the Office of the County Assessor.

2. The money in the Account:

(a) Must be accounted for separately and not as a part of any other account; and

(b) Must not be used to replace or supplant any money available from other sources to acquire technology for and improve technology used in the office of the county assessor.

3. The money in the Account must be used to acquire technology for or improve the technology used in the office of the county assessor ~~or~~ **or by another entity with operational impact on the office of the county assessor**, including, without limitation, the payment of costs associated with acquiring or improving technology for converting and archiving records, purchasing hardware and software, maintaining the technology, training employees in the operation of the technology and contracting for professional services relating to the technology. ~~[At the discretion of the county assessor, the money may be used by other county offices that do business with the county assessor.]~~

4. On or before July 1 of each year, the county assessor shall submit to the board of county commissioners a report of the projected expenditures of the money in the Account for the following fiscal year. Any money remaining in the Account at the end of a fiscal year that has not been committed for expenditure reverts to the county general fund.

Sec. 16. Section 57 of chapter 496, Statutes of Nevada 2005, as last amended by chapter 287, Statutes of Nevada 2009, at page 1232, is hereby amended to read as follows:

Sec. 57. 1. This section and sections 52.1 to 52.8, inclusive, of this act become effective upon passage and approval.

2. Sections 1 to 22, inclusive, 24 to 28, inclusive, 42 to 52, inclusive, and 53 to 56, inclusive, of this act become effective on July 1, 2005.

3. Sections 29 to 41, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of performing any preparatory administrative tasks that are necessary to carry out the provisions of those sections; and

(b) On July 1, 2006, for all other purposes.

4. Section 23 of this act becomes effective on July 1, ~~{2011-}~~ **2013.**

5. Section 43 of this act expires by limitation on June 30, ~~{2011-}~~ **2013.**

Sec. 17. NRS 361.170 and 361.230 are hereby repealed.

Sec. 18. The provisions of sections 1, 6 and 17 of this act do not apply to or affect the assessment of any taxes, the application or administration of any exemptions from taxation or the valuation of any property for any fiscal year beginning before July 1, 2012.

Sec. 19. 1. This section and sections 2 to 5, inclusive, ~~10, 11, 12~~ to 15, inclusive, and 16 of this act become effective upon passage and approval.

2. Sections 1, 6, 7, 9.5, 11.5, 15.5, 17 and 18 of this act become effective on July 1, 2011.

TEXT OF REPEALED SECTIONS

361.170 Claims for exemption: Requirements. Any person, copartnership, association or corporation making claim to no situs status on any property under NRS 361.160 to 361.185, inclusive, shall do so in the form and manner prescribed by the Department. All such claims shall be accompanied by a certification of the warehouse company as to the status on its books of the property involved.

361.230 Minimum valuation of patented land and land held under state land contract.

1. No patented land of any description in the State of Nevada owned by any individual, partnership, association, estate, corporation or otherwise, and no land held under any state land contract, shall be assessed for less than \$1.25 per acre by the county assessors of the various counties.

2. If the county board of equalization shall ascertain that any land within its county has been assessed upon a valuation of less than \$1.25 per acre, or has not been assessed at all, the board shall notify the county assessor immediately to pay into the county treasury the taxes due on such land, in such a sum as will yield the full amount of taxes due upon such land upon its true value, which valuation shall not be less than \$1.25 per acre. If a county assessor fails to pay such taxes within 10 days after such notification by the county board of equalization, the district attorney shall file and prosecute diligently a suit against the county assessor and his or her surety or sureties on his or her official bond for the amount of such taxes.

Senator Leslie moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 249.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 268.

The following Assembly amendment was read:

Amendment No. 833.

"SUMMARY—Revises provisions relating to ~~competing for~~ public works, ~~by design professionals.~~ (BDR 28-740)"

"AN ACT relating to public works; revising provisions relating to preferences when competing for contracts for certain public works projects; **requiring a contractor to replace an unacceptable subcontractor on a public work of this State without an increase in the amount of the bid; requiring a prime contractor to forfeit a portion of the amount of a contract for a public work under certain circumstances; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work; revising provisions governing the selection of a construction manager at risk for preconstruction services and the construction of a public work; revising the manner in which a construction manager at risk may solicit bids and select a subcontractor for a public work;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a contract for a public work involving a design-build team is awarded by a public body based on the application of certain criteria. A design-build team may qualify for a preference in bidding on such a contract if the contractor on the design-build team has submitted proof to the State Contractors' Board that the contractor has paid certain taxes to the State for the past 5 years. (NRS 338.1389, 338.147, 338.1727, 408.3886)

Section ~~HH~~ 2 of this bill allows a person who holds a certificate of registration to engage in the practice of architecture or landscape architecture or who holds a license as a professional engineer or professional land surveyor to qualify for a preference when competing for public works if the person has submitted proof to the appropriate licensing board that the person has paid certain taxes to the State for the past ~~15~~ **3** years. **Sections ~~HH~~ 26 and ~~HH~~ 31** of this bill allow a design-build team to receive a preference in selection as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Sections ~~HH~~ 28 and ~~HH~~ 32** of this bill allow a design-build team that has been selected as a finalist for a public work or a project for the construction, reconstruction or improvement of a highway to receive a preference in selection for a contract only if both the contractor and the design professionals on the design-build team possess a certificate of eligibility to receive their respective preferences. **Section ~~HH~~ 33** of this bill allows an architect, professional engineer or professional land surveyor to receive a preference in selection for certain public works if the architect, professional engineer or professional land surveyor possesses a

certificate of eligibility to receive a preference when competing for public works.

Existing law provides that a public body which selects a design-build team as a finalist in the selection process for a contract for a public work must make public specified information concerning the design-build team and its selection. (NRS 338.1725) **Section ~~17~~ 31** of this bill adds a similar requirement for the Department of Transportation to make public specified information concerning a design-build team and the selection of that design-build team as a finalist in the selection process for a contract for a project for the construction, reconstruction or improvement of a highway. **Section ~~13~~ 16** of this bill requires that a public body must, after selecting but before entering into a contract with a design professional who is not a member of a design-build team, transmit certain information concerning the selection of the design profession to the licensing board that regulates the design professional. That licensing board must post the information on its Internet website.

Before a contract for a public work of this State is awarded, existing law requires a contractor to replace a subcontractor that is named in the contractor's bid for the contract if the subcontractor is not properly licensed or has been disqualified from participating in public works sponsored by the State Public Works Board. (NRS 338.13895) Section 12 of this bill requires the contractor to replace such a subcontractor without an increase in the amount of the bid. This same requirement currently applies with respect to the replacement of a subcontractor named in a bid for a contract for a public work of a local government if the subcontractor is not properly licensed. (NRS 338.13895)

Under existing law, a contractor is required to list in his or her bid for a public work the names of certain subcontractors who will be performing work on the public work if the contractor is awarded the contract. Existing law sets forth requirements with which a prime contractor who is awarded the contract must comply to substitute a subcontractor for another subcontractor. (NRS 338.141) If a prime contractor does not comply with the requirements related to the substitution of subcontractors, section 13 of this bill requires the prime contractor to forfeit 1 percent of the contract amount as a penalty.

Existing law also requires a contractor to include his or her name on a bid for a public work if, as the prime contractor, the contractor will perform a portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work. (NRS 338.141) Section 13 of this bill requires a prime contractor to forfeit a specified amount as a penalty if the prime contractor substitutes a subcontractor to perform the work that the prime contractor indicated on the bid that the prime contractor or another subcontractor would perform.

In order for a subcontractor to be eligible to provide materials, equipment, work or other services on a public work for which a

construction manager at risk was awarded a contract, existing law requires the subcontractor to be licensed and to be selected based on a process of competitive bidding set forth for all subcontractors on any public work in the State. (NRS 338.1699) Sections 4 and 5 of this bill changes the manner in which a construction manager at risk selects subcontractors and sets forth specific procedures a construction manager at risk must follow when selecting subcontractors to provide materials, equipment, work or other services on a public work for which the construction manager at risk was awarded a contract.

Existing law authorizes a public body to construct a public work by selecting a construction manager at risk and sets forth certain procedures the public body must follow when selecting the construction manager at risk and entering into a contract with him or her for preconstruction services or to construct the public work. (NRS 338.169-338.1699) Sections 18-22 of this bill amend the provisions governing the way in which a public body must select a construction manager at risk. Existing law provides for a two-step selection process, wherein construction managers at risk must first submit a statement of qualifications, and then the public body selects finalists who are requested to submit final proposals and are interviewed before one is chosen to be awarded the contract. (NRS 338.1692-338.1695) Instead, sections 20 and 21 of this bill change the process to a single step: a construction manager at risk submits a proposal from the start, which contains a combination of the statement of qualifications and any material existing law required to be included in a final proposal, and the public body chooses which applicants to interview and which to select from those proposals. Section 22 of this bill allows a public body to enter into negotiations with the construction manager at risk who is providing the preconstruction services for the construction of a portion of the public work as soon as that portion of the design is finalized instead of waiting until the complete design is finished, as is currently required by existing law. In addition, section 22 allows the construction manager at risk providing preconstruction services to bid on the project if negotiations for the contract fail and the public body opens it up for bids.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto ~~new section to read as follows:~~ the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. 1. The State Board of Architecture, Interior Design and Residential Design shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of architecture pursuant to the provisions of chapter 623 of NRS and submits to the Board an

affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of architecture in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than \$1,500 for each consecutive 12-month period for ~~60~~ 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of architecture that:

(1) Satisfies the requirements of NRS 623.350; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

2. The State Board of Landscape Architecture shall issue a certificate of eligibility to receive a preference when competing for public works to a person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to the provisions of chapter 623A of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the person has, while holding a certificate of registration to engage in the practice of landscape architecture in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than \$1,500 for each consecutive 12-month period for ~~60~~ 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in the practice of landscape architecture that:

(1) Satisfies the requirements of NRS 623A.250; and

(2) Possesses a certificate of eligibility to receive a preference when competing for public works.

3. The State Board of Professional Engineers and Land Surveyors shall issue a certificate of eligibility to receive a preference when competing for public works to a professional engineer or professional land surveyor who is licensed pursuant to the provisions of chapter 625 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the professional engineer or professional land surveyor has, while licensed as a professional engineer or professional land surveyor in this State:

(a) Paid directly, on his or her own behalf the excise tax imposed upon an employer by NRS 363B.110 of not less than \$1,500 for each consecutive 12-month period for ~~60~~ 36 months immediately preceding the submission of the affidavit from the certified public accountant; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating business that engages in engineering or land surveying that:

- (1) Satisfies the requirements of NRS 625.407; and*
- (2) Possesses a certificate of eligibility to receive a preference when competing for public works.*

4. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 1, paragraph (a) of subsection 2 and paragraph (a) of subsection 3, a person shall be deemed to have paid:

(a) The excise tax imposed upon an employer by NRS 363B.110 by an affiliate or parent company of the person, if the affiliate or parent company also satisfies the requirements of NRS 623.350, 623A.250 or 625.407, as applicable; and

(b) The excise tax imposed upon an employer by NRS 363B.110 by a joint venture in which the person is a participant, in proportion to the amount of interest the person has in the joint venture.

5. A design professional who has received a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 must, at the time for the renewal of his or her professional license or certificate of registration, as applicable, pursuant to chapter 623, 623A or 625 of NRS, submit to the applicable licensing board an affidavit from a certified public accountant setting forth that the design professional has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 1, paragraph (a) of subsection 2 or paragraph (a) of subsection 3, as applicable, to maintain eligibility to hold such a certificate.

6. A design professional who fails to submit an affidavit to the applicable licensing board pursuant to subsection 5 ceases to be eligible to receive a preference when competing for public works unless the design professional reapplies for and receives a certificate of eligibility pursuant to subsection 1, 2 or 3, as applicable.

7. If a design professional holds more than one license or certificate of registration, the design professional must submit a separate application for each license or certificate of registration pursuant to which the design professional wishes to qualify for a preference when competing for public works. Upon issuance, the certificate of eligibility to receive a preference when competing for public works becomes part of the design professional's license or certificate of registration for which the design professional submitted the application.

8. If a design professional who applies to a licensing board for a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 submits false information to the licensing board regarding the required payment of taxes, the design professional is not eligible to receive a preference when competing for public works for a period of 5 years after the date on which the licensing board becomes aware of the submission of the false information.

9. The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of

Professional Engineers and Land Surveyors shall adopt regulations and may assess reasonable fees relating to their respective certification of design professionals for a preference when competing for public works.

10. A person or entity who believes that a design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works may challenge the validity of the certificate by filing a written objection with the public body which selected, for the purpose of providing services for a public work, the design professional who holds the certificate. A written objection authorized pursuant to this subsection must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the design professional wrongfully holds a certificate of eligibility to receive a preference when competing for public works; and

(b) Be filed with the public body not later than 3 business days after:

(1) The date on which the public body makes available to the public pursuant to subsection 3 of NRS 338.1725 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 338.1725;

(2) The date on which the Department of Transportation makes available to the public pursuant to subsection 3 of NRS 408.3885 the information required by that subsection, if the design-build team of which the design professional who holds the certificate is a part was selected as a finalist pursuant to NRS 408.3885; or

(3) The date on which the licensing board which issued the certificate to the design professional posted on its Internet website the information required by subsection 3 of NRS 338.155, if the design professional is identified in that information as being selected for a contract governed by NRS 338.155.

11. If a public body receives a written objection pursuant to subsection 10, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the design professional qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 3. 1. Notwithstanding the provisions of sections 4 and 5 of this act, and subject to the provisions of subsection 2, if a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, the construction manager at risk may

enter into a contract with a subcontractor licensed pursuant to chapter 624 of NRS to provide any of the following preconstruction services, the basis of payment for which is a negotiated price:

(a) Assisting the construction manager at risk in identifying and selecting materials and equipment to be provided by each subcontractor;

(b) Assisting the construction manager at risk in creating a schedule for the provision of labor, materials or equipment by each subcontractor;

(c) For the purpose of enabling the construction manager at risk to establish a budget for the construction of the public work, estimating the cost of labor, materials or equipment to be provided by each subcontractor; and

(d) Providing recommendations to the construction manager at risk regarding the design for the public work, as the design pertains to the labor, materials or equipment to be provided by each subcontractor.

2. A subcontractor may not provide preconstruction services pursuant to this section in an area of work outside the field or scope of the license of the subcontractor.

Sec. 4. 1. To be eligible to provide labor, materials or equipment on a public work, the contract for which a public body has entered into with a construction manager at risk pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Qualified pursuant to the provisions of this section to submit a proposal for the provision of labor, materials or equipment on a public work.

2. Subject to the provisions of subsections 3, 4 and 5, the construction manager at risk shall determine whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment on the public work for the purposes of paragraph (b) of subsection 1.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to apply to qualify to submit a meaningful and responsive proposal for the provision of labor, materials or equipment on the public work, and not later than 21 days before the date by which such an application must be submitted, the construction manager at risk shall advertise for such applications in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

4. The criteria to be used by the construction manager at risk when determining whether an applicant is qualified to submit a proposal for the provision of labor, materials or equipment must include, and must be limited to:

(a) The monetary limit placed on the license of the applicant by the State Contractors' Board pursuant to NRS 624.220;

(b) The financial ability of the applicant to provide the labor, materials or equipment required on the public work;

(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the public body;

(d) The safety programs established and the safety records accumulated by the applicant;

(e) Whether the applicant has breached any contracts with a public body or person in this State or any other state during the 5 years immediately preceding the application;

(f) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the public work;

(g) The performance history of the applicant concerning other recent, similar public or private contracts, if any, completed by the applicant in Nevada;

(h) The principal personnel of the applicant;

(i) Whether the applicant has been disqualified from the award of any contract pursuant to NRS 338.017 or 338.13895; and

(j) The truthfulness and completeness of the application.

5. The public body or its authorized representative shall ensure that each determination made pursuant to subsection 2 is made subject to the provisions of subsection 4.

6. The construction manager at risk shall notify each applicant and the public body in writing of a determination made pursuant to subsection 2.

7. A determination made pursuant to subsection 2 that an applicant is not qualified may be appealed pursuant to NRS 338.1381 to the public body with whom the construction manager at risk has entered into a contract for the construction of the public work.

Sec. 5. 1. If a public body enters into a contract with a construction manager at risk for the construction of a public work pursuant to NRS 338.1696, the construction manager at risk may enter into a subcontract for the provision of labor, materials and equipment necessary for the construction of the public work only as provided in this section.

2. The provisions of this section apply only to a subcontract for which the estimated value is at least 1 percent of the total cost of the public work.

3. After the design and schedule for the construction of the public work is sufficiently detailed and complete to allow a subcontractor to submit a meaningful and responsive proposal, and not later than 21 days before the date by which a proposal for the provision of labor, materials or equipment by a subcontractor must be submitted, the construction manager at risk shall notify in writing each subcontractor who was determined pursuant to section 4 of this act to be qualified to submit such a proposal of a request

for such proposals. A copy of the notice required pursuant to this subsection must be provided to the public body.

4. The notice required pursuant to subsection 3 must include, without limitation:

(a) A description of the design for the public work and a statement indicating where a copy of the documents relating to that design may be obtained;

(b) A description of the type and scope of labor, equipment and materials for which subcontractor proposals are being sought;

(c) The dates on which it is anticipated that construction of the public work will begin and end;

(d) The date, time and place at which a preproposal meeting will be held;

(e) The date and time by which proposals must be received, and to whom they must be submitted;

(f) The date, time and place at which proposals will be opened for evaluation;

(g) A description of the bonding and insurance requirements for subcontractors;

(h) Any other information reasonably necessary for a subcontractor to submit a responsive proposal; and

(i) A statement in substantially the following form:

Notice: For a proposal for a subcontract on the public work to be considered:

1. The subcontractor must be licensed pursuant to chapter 624 of NRS;

2. The proposal must be timely received;

3. The subcontractor must attend the preproposal meeting; and

4. The subcontractor may not modify the proposal after the date and time the proposal is received.

5. A subcontractor may not modify a proposal after the date and time the proposal is received.

6. To be considered responsive, a proposal must:

(a) Be timely received by the construction manager at risk; and

(b) Substantially and materially conform to the details and requirements included in the proposal instructions and for the finalized bid package for the public work, including, without limitation, details and requirements affecting price and performance.

7. The opening of the proposals must be attended by an authorized representative of the public body and the architect or engineer responsible for the design of the public work but is not otherwise open to the public.

8. At the time the proposals are opened, the construction manager at risk shall compile and provide to the public body or its authorized representative a list that includes, without limitation, the name and contact information of each subcontractor who submits a timely proposal and the

price of the proposal submitted by the subcontractor. The list must be made available to the public upon request.

9. Not less than 10 working days after opening the proposal, the construction manager at risk shall:

(a) Evaluate the proposals and determine which proposals are responsive.

(b) Select the subcontractor who submits the proposal that the construction manager at risk determines is the best proposal. The subcontractor must be selected from among those:

(1) Who attended the preproposal meeting;

(2) Who submitted a responsive proposal; and

(3) Whose names are included on the list compiled and provided to the public body or its authorized representative pursuant to subsection 8.

(c) Inform the public body or its authorized representative which subcontractor has been selected.

10. The public body or its authorized representative shall ensure that the evaluation of proposals and selection of subcontractors are done pursuant to the provisions of this section and regulations adopted by the State Public Works Board.

11. A subcontractor selected pursuant to subsection 9 need not be selected by the construction manager at risk solely on the basis of lowest price.

12. Except as otherwise provided in subsection 13, the construction manager at risk shall enter into a subcontract with a subcontractor selected pursuant to subsection 9 to provide the labor, materials or equipment described in the request for proposals.

13. A construction manager at risk shall not substitute a subcontractor for any subcontractor selected pursuant to subsection 9 unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the public body after the selected subcontractor:

(1) Files for bankruptcy or becomes insolvent;

(2) After having a reasonable opportunity, fails or refuses to execute a written contract with the construction manager at risk which was offered to the selected subcontractor with the same general terms that all other subcontractors on the project were offered;

(3) Fails or refuses to perform the subcontract within a reasonable time;

(4) Is unable to furnish a performance bond and payment bond pursuant to NRS 339.025, if required for the public work; or

(5) Is not properly licensed to provide that labor or portion of the work.

14. The construction manager at risk shall make available to the public, including, without limitation, each subcontractor who submits a proposal, the final rankings of the subcontractors and shall provide, upon request, an explanation to any subcontractor who is not selected of the reasons why the subcontractor was not selected.

15. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

Sec. 6. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to ~~338.1699,~~ **338.16985**, inclusive, ~~+~~, **and sections 3, 4 and 5 of this act; or**
- (d) NRS 338.1711 to 338.1727, inclusive.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 ~~+~~, ~~338.169 to 338.1699, inclusive,~~ and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

~~Sec. 2.~~ **Sec. 7. NRS 338.1373 is hereby amended to read as follows:**

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive;
- (c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or
- (d) NRS 338.1711 to 338.1727, inclusive ~~+~~, **and section ~~+~~ 2 of this act.**

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 8. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

- (a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive;
(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive, and section 2 of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 9. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;
(b) NRS 338.143 to 338.148, inclusive;
(c) NRS 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act; or

(d) NRS 338.1711 to 338.1727, inclusive, ~~1, and section 2 of this act.~~

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to 338.16985, inclusive, and sections 3, 4 and 5 of this act and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 10. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 or section 4 of this act or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the State Public Works Board or the local government, the Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to

bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

- (a) Administer oaths;
- (b) Take testimony;
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;
- (d) Require the production of related books, papers and documents; and
- (e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.

6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Sec. 11. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons

desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to ~~338.1699~~, 338.16985, inclusive ~~1~~, and sections 3, 4 and 5 of this act.

Sec. 12. NRS 338.13895 is hereby amended to read as follows:

338.13895 1. The State Public Works Board shall not award a contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of the work, or who, at the time of the bid, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➤ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor ~~1~~ with no increase in the amount of the contract or bid.

2. A local government awarding a contract for a public work shall not award the contract to a person who, at the time of the bid, is not properly licensed under the provisions of chapter 624 of NRS or if the contract would exceed the limit of the person's license. A subcontractor who is:

(a) Named in the bid for the contract as a subcontractor who will provide a portion of the work on the public work pursuant to NRS 338.141; and

(b) Not properly licensed for that portion of work,
➤ shall be deemed unacceptable. If the subcontractor is deemed unacceptable pursuant to this subsection, the contractor shall provide an acceptable subcontractor with no increase in the amount of the contract ~~1~~ or bid.

3. If, after awarding the contract, but before commencement of the work, the public body or its authorized representative discovers that the person to whom the contract was awarded is not licensed, or that the contract would

exceed the person's license, the public body or its authorized representative shall rescind the award of the contract and may accept the next lowest bid for that public work from a responsive bidder who was determined by the public body or its authorized representative to be a qualified bidder pursuant to NRS 338.1379 or 338.1382 without requiring that new bids be submitted.

Sec. 13. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 1 percent of the prime contractor's total bid or \$50,000, whichever is greater, and the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) **or (b)** of subsection 1 if, **as** the prime contractor, **the prime contractor** will perform any of the work required to be listed pursuant to paragraph (a) **or (b)** of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public Works Board pursuant to NRS 338.1376,

➤ the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the State Public

Works Board pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A prime contractor ~~{whose bid is accepted}~~ shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. *If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.*

7. If a prime contractor ~~{indicates}~~ indicated pursuant to subsection ~~{1}~~ 3 that he or she ~~{will}~~ would perform a portion of work on the public work and ~~{thereafter requests to substitute}~~ , after the submission of the bid, substitutes a subcontractor to perform such work, the prime contractor shall ~~{provide to the public body a written explanation in the form required by the public body which contains the reasons that:~~

~~—(a) A subcontractor was not originally contemplated to be used on that portion of the public work; and~~

~~—(b) The substitution is in the best interest of the public body.~~

7.1 forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders;

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

8. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" means the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor, but does not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 14. NRS 338.142 is hereby amended to read as follows:

338.142 1. A person who bids on a contract may file a notice of protest regarding the awarding of the contract with the authorized representative designated by the public body within 5 business days after the date the ~~bids were opened~~ **recommendation to award a contract is issued** by the public body or its authorized representative.

2. The notice of protest must include a written statement setting forth with specificity the reasons the person filing the notice believes the applicable provisions of law were violated.

3. A person filing a notice of protest may be required by the public body or its authorized representative, at the time the notice of protest is filed, to post a bond with a good and solvent surety authorized to do business in this state or submit other security, in a form approved by the public body, to the public body who shall hold the bond or other security until a determination is made on the protest. A bond posted or other security submitted with a notice of protest must be in an amount equal to the lesser of:

(a) Twenty-five percent of the total value of the bid submitted by the person filing the notice of protest; or

(b) Two hundred fifty thousand dollars.

4. A notice of protest filed in accordance with the provisions of this section operates as a stay of action in relation to the awarding of any contract until a determination is made by the public body on the protest.

5. A person who makes an unsuccessful bid may not seek any type of judicial intervention until the public body has made a determination on the protest and awarded the contract.

6. Neither a public body nor any authorized representative of the public body is liable for any costs, expenses, attorney's fees, loss of income or other damages sustained by a person who makes a bid, whether or not the person files a notice of protest pursuant to this section.

7. If the protest is upheld, the bond posted or other security submitted with the notice of protest must be returned to the person who posted the bond or submitted the security. If the protest is rejected, a claim may be made against the bond or other security by the public body in an amount equal to the expenses incurred by the public body because of the unsuccessful protest. Any money remaining after the claim has been satisfied must be returned to the person who posted the bond or submitted the security.

Sec. 15. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or
- (c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive;

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or

(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk

pursuant to NRS 338.169 to ~~338.1699~~, 338.16985, inclusive ~~11~~, and sections 3, 4 and 5 of this act.

~~Sec. 3.~~ **Sec. 16.** NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. *A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional, whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.*

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 17. NRS 338.155 is hereby amended to read as follows:

338.155 1. If a public body enters into a contract with a design professional who is not a member of a design-build team, for the provision of services in connection with a public work, the contract:

(a) Must set forth:

(1) The specific period within which the public body must pay the design professional.

(2) The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

(3) The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to subparagraph (1).

(4) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

(b) May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to subparagraph (1) of paragraph (a).

(c) May set forth the terms by which the design professional agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design professional, if the policy allows such an addition.

(d) Must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by

the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers or agents of the public body.

(e) Except as otherwise provided in this paragraph, may require the design professional to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees and costs, to the extent that such liabilities, damages, losses, claims, actions or proceedings are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design professional or the employees or agents of the design professional in the performance of the contract. If the insurer by which the design professional is insured against professional liability does not so defend the public body and the employees, officers and agents of the public body and the design professional is adjudicated to be liable by a trier of fact, the trier of fact shall award reasonable attorney's fees and costs to be paid to the public body by the design professional in an amount which is proportionate to the liability of the design professional.

2. Any provision of a contract entered into by a public body and a design professional who is not a member of a design-build team that conflicts with the provisions of paragraph (d) or (e) of subsection 1 is void.

3. A public body shall not enter into a contract with a design professional who is not a member of a design-build team for the provision of services in connection with a public work until 3 days after the public body has transmitted the information relating to the selection of the design professional to the licensing board that regulates the design professional, including, without limitation, the name of the public body, the name of the design professional ~~and whether the design professional possesses a certificate of eligibility to receive a preference when competing for public works~~, and a brief description of the project and services the design professional was selected for, and the licensing board has posted such information on its Internet website. A licensing board shall post any information received pursuant to this subsection within 1 business day after receiving such information.

4. As used in this section, "agents" means those persons who are directly involved in and acting on behalf of the public body or the design professional, as applicable, in furtherance of the contract or the public work to which the contract pertains.

Sec. 18. NRS 338.169 is hereby amended to read as follows:

338.169 A public body may construct a public work by:

1. Selecting a construction manager at risk pursuant to the provisions of NRS 338.1691 to 338.1696, inclusive; and
2. Entering into separate contracts with a construction manager at risk:
 - (a) For preconstruction services, including, without limitation:

(1) Assisting the public body in determining whether scheduling or ~~design~~ constructability problems exist that would delay the construction of the public work;

(2) Estimating the cost of the labor and material for the public work; and

(3) Assisting the public body in determining whether the public work can be constructed within the public body's budget; and

(b) To construct the public work.

Sec. 19. NRS 338.1691 is hereby amended to read as follows:

338.1691 To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:

1. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for ~~statements of qualifications~~ proposals pursuant to NRS 338.1692;

2. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;

3. Be licensed as a contractor pursuant to chapter 624 of NRS; and

4. If the project is for the ~~design~~ construction of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 20. NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body or its authorized representative shall advertise for ~~statements of qualifications~~ proposals for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

2. A request for ~~a statement of qualifications~~ proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost of construction;

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which ~~statements of qualifications~~ proposals must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a ~~statement of qualifications~~ proposal;

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work; ~~and~~

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to evaluate ~~statements of qualifications,~~ proposals; ~~and~~

(i) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A ~~statement of qualifications,~~ proposal must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope ~~in both the public and private sectors, including, without limitation, an explanation of the experience that the applicant has in assisting in the design of such projects and an explanation of the experience that the applicant has in such projects in Nevada;~~

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant;

(c) ~~The applicant's preliminary proposal for managing the preconstruction and construction of the public work;~~

~~—(d)~~ Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body;

~~—(e)~~ (d) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; ~~and~~

~~—(f)~~ (e) A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause ~~in~~ , during the 5 years immediately preceding the date of the advertisement for proposals; and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333 ~~in~~;

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work;

(g) The safety programs established and the safety records accumulated by the applicant;

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS;

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

Sec. 21. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body *or its authorized representative* shall appoint a panel consisting of at least three members *, at least two of whom must have experience in the construction industry,* to rank the ~~statements of qualifications~~ *proposals* submitted to the public body by evaluating the ~~statements of qualifications~~ *proposals* as required pursuant to subsections 2 and 3.

2. The panel shall rank the ~~statements of qualifications~~ *proposals* by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) ~~Conducting an evaluation of the qualifications of each applicant based on the factors and relative weight assigned to each factor that the public body specified in the request for statements of qualifications advertised pursuant to NRS 338.1692.~~ *Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.*

3. When ranking the ~~statements of qualifications~~ *proposals*, the panel shall assign a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works. *If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.*

4. After the panel ranks the ~~statements of qualifications~~ *proposals*, the public body *or its authorized representative* shall ~~—~~

~~— (a) Make available to the public the rankings of the applicants; and~~

~~— (b) Except~~ *, except* as otherwise provided in subsection 5, select at least the two but not more than the five applicants ~~that the panel determined to be most qualified as finalists to submit final proposals to the public body pursuant to NRS 338.1694.~~ *whose proposals received the highest scores for interviews. During the interview process, the public body or its authorized representative may require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. After conducting such interviews, the panel shall rank the applicants by using a ranking process that is separate from the process used to rank proposals pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for the proposed amount of compensation, if any, must be calculated*

by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant.

5. If the public body did not receive at least two ~~statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and NRS 338.1691,~~ proposals, the public body may not contract with a construction manager at risk.

6. Upon receipt of the final rankings of the applicants from the panel, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to subsections 2, 3 and 4 for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. The public body or its authorized representative shall make available to all applicants and the public the final rankings of the applicants and shall provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 22. NRS 338.1696 is hereby amended to read as follows:

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS ~~338.1695,~~ 338.1693, after the public body has finalized the design for the public work, or any portion thereof sufficient to determine the provable cost of that portion, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work or the portion thereof for the public body for:

(a) The cost of the work, plus a fee, with a guaranteed maximum price;
 (b) A fixed price; or
 (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work or portion thereof.

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work or portion thereof, the public body ~~shall~~

~~—(a) Shall~~ shall terminate negotiations with that applicant ~~and~~ :

~~—(b) (a)~~ (a) May award the contract for the public work:

(1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.

(2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive, ~~it~~; **and**

(b) Shall accept a bid to construct the public work from the construction manager at risk with whom the public body entered into a contract for preconstruction services.

Sec. 23. NRS 338.1698 is hereby amended to read as follows:

338.1698 A contract awarded to a construction manager at risk pursuant to NRS ~~338.1695 or~~ 338.1696:

1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

2. Must specify a date by which performance of the work required by the contract must be completed.

3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.

4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.

5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

Sec. 24. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~338.1699~~, **338.16985**, inclusive, **and sections 3, 4 and 5 of this act**, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work ~~is~~

~~—(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or~~

~~—(b) Has~~ **has** an estimated cost which exceeds ~~[\$10,000,000]~~ **\$5,000,000**.

Sec. 25. NRS 338.1718 is hereby amended to read as follows:

338.1718 1. A construction manager as agent:

(a) Must:

(1) Be a contractor licensed pursuant to chapter 624 of NRS;

(2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not ~~take~~ :

(1) Take part in the design or construction of the public work ~~if~~ ; or

(2) Act as an agent of the public body to select a subcontractor if the work to be performed by the subcontractor is part of a larger public work.

2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.

~~{Sec. 4.}~~ **Sec. 26.** NRS 338.1725 is hereby amended to read as follows:

338.1725 1. The public body shall select at least two but not more than four finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least two preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and NRS 338.1721, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 338.1721; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work ~~if~~ ; **and**

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this

paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. After the selection of finalists pursuant to this section, the public body shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and ~~{the rankings of the design-build teams who submitted preliminary proposals.}~~ ***identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.***

~~{Sec. 5.}~~ ***Sec. 27.*** NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of ~~{both}~~ a certificate of eligibility to receive a preference in bidding on public works ~~{by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team.}~~ and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to ~~{a}~~ preference in bidding on public works, ~~{for a preference when competing for public works.}~~ those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body ~~is, at a regularly scheduled meeting,~~ or its authorized representative shall,

~~—(a) Select the final proposal, using,~~ enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. ~~is, or~~

~~—(b) Reject all the final proposals.~~ If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to ~~paragraph (a) of~~ subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 28. NRS 338.1727 is hereby amended to read as follows:

338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. If one or more of the finalists selected pursuant to NRS 338.1725 is disqualified or withdraws, the public body may select a design-build team from the remaining finalist or finalists.

3. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the public body shall assign, without limitation, a relative weight of 5 percent to the possession of **both** a certificate of eligibility to receive a preference in bidding on public works **by all contractors on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all design professionals on the design-build team,** and a relative weight of at least 30 percent to the proposed cost of design and construction of the public work. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to **a** preference in bidding on public

works, or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.

4. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly and be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1. A design-build team that submits a final proposal which is not responsive shall not be awarded the contract and shall not be eligible for the partial reimbursement of costs provided for in subsection 7.

5. A final proposal is exempt from the requirements of NRS 338.141.

6. After receiving and evaluating the final proposals for the public work, the public body or its authorized representative shall enter into negotiations with the most qualified applicant, as determined pursuant to the criteria set forth pursuant to subsections 1 and 3, and award the design-build contract to the design-build team whose proposal is selected. If the public body or its authorized representative is unable to negotiate with the most qualified applicant a contract that is determined by the parties to be fair and reasonable, the public body may terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

7. If a public body selects a final proposal and awards a design-build contract pursuant to subsection 6, the public body shall:

(a) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (j) of subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(b) Make available to the public the results of the evaluation of final proposals that was conducted and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

8. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.

(b) Must specify:

(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team.

(d) Except as otherwise provided in paragraph (e), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.

(e) May require the design-build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.

(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.

9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.

Sec. 29. NRS 338.485 is hereby amended to read as follows:

338.485 1. A person may not waive or modify a right, obligation or liability set forth in the provisions of NRS 338.400 to 338.645, inclusive.

2. A condition, stipulation or provision in a contract or other agreement that:

(a) Requires a person to waive a right set forth in the provisions of NRS 338.400 to 338.645, inclusive; ~~for~~

(b) Relieves a person of an obligation or liability imposed by the provisions of NRS 338.400 to 338.645, inclusive. ~~It~~;

(c) Requires a contractor to waive, release or extinguish a claim or right for damages or an extension of time that the contractor may otherwise possess or acquire as a result of a delay that is:

(1) So unreasonable in length as to amount to an abandonment of the public work;

(2) Caused by fraud, misrepresentation, concealment or other bad faith by the public body;

(3) Caused by active interference by the public body; or

(4) Caused by a decision by the public body to significantly add to the scope or duration of the public work; or

(d) Requires a contractor or public body to be responsible for any consequential damages suffered or incurred by the other party that arise from or relate to a contract for a public work, including, without limitation, rental expenses or other damages resulting from a loss of use or availability of the public work, lost income, lost profit, lost financing or opportunity, business or reputation, and loss of management or employee availability, productivity, opportunity or services,

is against public policy and is void and unenforceable.

3. The provisions of subsection 2 do not prohibit the use of a liquidated damages clause which otherwise satisfies the requirements of law.

~~[Sec. 6.]~~ **Sec. 30.** NRS 408.3883 is hereby amended to read as follows:

408.3883 1. The Department shall advertise for preliminary proposals for the design and construction of a project by a design-build team in a newspaper of general circulation in this State.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;
(b) Separate estimates of the costs of designing and constructing the project;

(c) The dates on which it is anticipated that the separate phases of the design and construction of the project will begin and end;

(d) The date by which preliminary proposals must be submitted to the Department, which must not be less than 30 days after the date that the request for preliminary proposals is first published in a newspaper pursuant to subsection 1; and

(e) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the information set forth in subsection 3.

3. The Department shall maintain at the time and place set forth in the request for preliminary proposals the following information for inspection by a design-build team desiring to submit a proposal for the project:

(a) The extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the Department determines to be necessary;

(b) A list of the requirements set forth in NRS 408.3884;

(c) A list of the factors that the Department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor pursuant to NRS 408.3886; and

(2) A disclosure of whether the factors that are not related to cost are, when considered as a group, more or less important in the process of evaluation than the factor of cost;

(d) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the Department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of NRS 408.3885 and a description of that information;

(e) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.1389 or 338.147 *and whose members who hold a certificate of registration to practice architecture or a license as a professional engineer and who hold a certificate of eligibility to receive a preference when competing for public works issued pursuant to section ~~7.1~~ 2 of this act* should submit a copy of ~~the~~ *each* certificate of eligibility with its proposal; and

(f) A statement as to whether a ~~bidding~~ design-build team that is selected as a finalist pursuant to NRS 408.3885 but is not awarded the design-build contract pursuant to NRS 408.3886 will be partially reimbursed for the cost of preparing a final proposal or best and final offer, or both, and, if so, an estimate of the amount of the partial reimbursement.

~~{Sec. 7.1}~~ **Sec. 31.** NRS 408.3885 is hereby amended to read as follows:

408.3885 1. The Department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the Department does not receive at least three preliminary proposals from design-build teams that the Department determines to be qualified pursuant to this section and NRS 408.3884, the Department may not contract with a design-build team for the design and construction of the project.

2. The Department shall select finalists pursuant to subsection 1 by:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of NRS 408.3884; ~~and~~

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team;

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project; and

(5) The degree to which the preliminary proposal is responsive to the requirements of the Department for the submittal of a preliminary proposal ~~††~~; and

(c) Except as otherwise provided in this paragraph, assigning, without limitation, a relative weight of 5 percent to the possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this paragraph relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this paragraph do not apply insofar as their application would preclude or reduce federal assistance for that public work.

3. *After the selection of finalists pursuant to this section, the Department shall make available to the public the results of the evaluations of preliminary proposals conducted pursuant to paragraph (b) of subsection 2 and identify which of the finalists, if any, received an assignment of 5 percent pursuant to paragraph (c) of subsection 2.*

~~†See. 8.†~~ Sec. 32. NRS 408.3886 is hereby amended to read as follows:

408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of *both* a certificate of eligibility to receive a preference in bidding on public works *by the prime contractor on the design-build team and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team*, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to *a* preference in bidding on public works ~~††~~ *or a preference when competing for public works*, those provisions of this

subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

- (a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;
- (b) Reject all the final proposals; or
- (c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

- (a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or
- (b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

- (a) Review and ratify the selection.
- (b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.
- (c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or

otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

~~{Sec. 9.}~~ **Sec. 33.** NRS 625.530 is hereby amended to read as follows:

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, **and section ~~##~~ 2 of this act** and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed \$35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of this chapter or chapter 623 of NRS.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be

made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him or her, the public agency may terminate negotiations and select another engineer, land surveyor or architect. *Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a professional engineer, professional land surveyor or registered architect pursuant to this subsection, the public agency shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference when competing for public works. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of this subsection relating to a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that public work.*

Sec. 34. NRS 338.1694, 338.1695 and 338.1699 are hereby repealed.

~~{Sec. 10.}~~ **Sec. 35. 1.** The State Board of Architecture, Interior Design and Residential Design, the State Board of Landscape Architecture and the State Board of Professional Engineers and Land Surveyors shall, before October 1, 2011, adopt any regulations which are required by or necessary to carry out the provisions of this act.

2. The State Public Works Board shall, as soon as practicable after the effective date of this section, adopt regulations governing the acts required by subsection 9 of section 5 of this act.

Sec. 36. 1. The State Public Works Board and each local government that awards a contract pursuant to NRS 338.1727, as amended by section 28 of this act, or NRS 408.3886, as amended by section 32 of this act, or selects a professional engineer, professional land surveyor or registered architect pursuant to NRS 625.530, as amended by section 33 of this act, shall, on or before October 1 of the year in which it awards such a contract or makes such a selection, submit to the Director of the Legislative Counsel Bureau a report detailing those contracts and selections on the form prescribed by the Committee on Local Government Finance.

2. Before August 1, 2011, the Committee on Local Government Finance created pursuant to NRS 354.105 shall prescribe a form for the report described in subsection 1, which must include, without limitation:

(a) The total number of contracts and selections described in subsection 1 awarded and made by the State Public Works Board or local government during the year to which the report pertains; and

(b) A description of each such contract or selection, including, without limitation:

(1) The name of the person or entity who was selected or to whom the contract was awarded.

(2) The particular type of goods or services involved in the contract or selection.

(3) The dollar amount of the contract or selection.

(4) Whether the person or entity who was selected or to whom the contract was awarded was awarded the contract or selected as a result of the person or entity possessing a certificate of eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act.

(5) If the person or entity who was selected or to whom the contract was awarded did not possess a certificate for eligibility to receive a preference when competing for public works pursuant to subsection 1, 2 or 3 of section 2 of this act, the number of persons or entities that did possess such a certificate that bid on the contract or were considered for selection.

Sec. 37. The provisions of sections 4 and 5 of this act apply only to contracts entered into on or after July 1, 2011.

~~{Sec. 11.}~~ Sec. 38. 1. This section and sections 1, 3 to 6, inclusive, 10 to 15, inclusive, 18 to 25, inclusive, 27, 29, 34, 35 and 37 of this act ~~{becomes}~~ become effective:

~~{1.}~~ (a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of ~~{this act,}~~ those sections; and

~~{2.}~~ (b) On July 1, 2011, for all other purposes.

2. Sections 2, 7, 16, 26, 28, 30 to 33, inclusive, and 36 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 those sections; and

(b) On October 1, 2011, for all other purposes.

3. Section 8 of this act becomes effective on July 1, 2013.

4. Sections 2, 26, 28, 30 to 33, inclusive, and 36 of this act expire by limitation on September 30, 2013.

5. Sections 9 and 17 of this act become effective on October 1, 2013.

TEXT OF REPEALED SECTIONS

NRS 338.1694 Final proposals: Requests; requirements.

1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of NRS 338.1693, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the

public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors.

NRS 338.1695 Ranking of applicants based on final proposals and interviews; negotiations with certain applicants for contract for preconstruction services; availability to applicants and public of certain information.

1. The panel appointed by the public body pursuant to NRS 338.1693 shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews

conducted pursuant to subsection 1 and the final rankings of the applicants.

NRS 338.1699 Subcontractors on public works for which contractor at risk was awarded contract: Eligibility; submission of list to public body.

1. To be eligible to provide materials, equipment, work or other services on a public work for which a construction manager at risk was awarded a contract pursuant to NRS 338.1696, a subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to NRS 338.1696 shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk intends to enter into a contract for the provision of materials, equipment, work or other services on the public work.

Senator Lee moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 268.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 136.

The following Assembly amendments were read:

Amendment No. 724.

"SUMMARY—Revises certain provisions governing ~~certains real property held by banks.~~ **financial institutions.** (BDR 55-737)"

"AN ACT relating to financial institutions; revising provisions governing the period that a bank may hold certain real property; removing provisions requiring a bank annually to charge off a certain percentage of the value of certain real property held by the bank and acquired as a result of a debt owed to the bank; revising provisions governing the review of certain applications for licensure by the Commissioner of Financial Institutions; revising provisions relating to the control of a retail trust company; revising provisions governing the assets which certain trust companies are required to maintain; revising provisions governing applications for a license to operate a retail trust company; authorizing certain persons to appeal certain decisions of the Commissioner; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a bank to hold real property that the bank acquires through the collection of debts owed to it for up to 10 years, and section 1 of this bill reduces that period to 5 years, except that a bank may request an extension of that period from the Commissioner of Financial Institutions of

not more than 5 years. Existing law also requires a bank to charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage if so required by the Commissioner. (NRS 662.015) ~~(This bill)~~ **Section 1** removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

Existing law charges the Commissioner with certain duties and responsibilities related to retail trust companies, including investigating companies that apply for licensure as a retail trust company, issuing licenses to qualified companies to operate as a retail trust company and removing from office an officer, director, manager or employee of a retail trust company for certain conduct. (NRS 657.180, 669.085, 669.090, 669.130, 669.150, 669.160, 669.281) Section 3 of this bill requires the Commissioner to consider certain criteria related to the potential long-term success of a trust company before approving the company's application for licensure to operate as a retail trust company. Section 4 of this bill requires a person who intends to obtain control of a retail trust company to submit an application for licensure to the Commissioner. Section 7 of this bill requires the Commissioner to provide to an applicant for licensure as a retail trust company written notice of any grounds for denial of an application and authorizes the applicant to cure any defect or deficiency in the application and resubmit the application within a certain period. Section 8 of this bill provides that a person who is removed from office by the Commissioner may appeal his or her removal from office within a certain period.

Existing law requires a retail trust company to maintain at least 50 percent of its required stockholders' equity in cash, unless the Commissioner approves a different amount, with the remaining amount to be held in the form of readily marketable securities or certain other assets that may be approved by the Commissioner. Existing law also requires a noncustodial trust company to maintain 50 percent of its required minimum capital in cash. (NRS 669.100) Section 6 of this bill requires a retail trust company to maintain a certain amount of its required stockholders' equity in the form of cash or certain cash equivalents and authorizes a retail trust company to hold the remaining amount of the required stockholders' equity in the form of readily marketable securities or certain other assets upon the approval of the Commissioner. Section 6 further requires that bonds or other evidence of indebtedness held by a retail trust company as part of its required stockholders' equity meet certain investment standards. Section 6 also requires a noncustodial trust company to maintain 25 percent of its required minimum capital in the form of cash.

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

Section 1. NRS 662.015 is hereby amended to read as follows:

662.015 1. In addition to the powers conferred by law upon private corporations and limited-liability companies, a bank may:

(a) Exercise by its board of directors, managers or authorized officers and agents, subject to law, all powers necessary to carry on the business of banking by:

(1) Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of indebtedness;

(2) Receiving deposits;

(3) Buying and selling exchange, coin and bullion; and

(4) Loaning money on personal security or real and personal property.

➤ At the time of making loans, banks may take and receive interest or discounts in advance.

(b) Adopt regulations for its own government not inconsistent with the Constitution and laws of this State.

(c) Issue, advise and confirm letters of credit authorizing the beneficiaries to draw upon the bank or its correspondents.

(d) Receive money for transmission.

(e) Establish and become a member of a clearinghouse association and pledge assets required for its qualification.

(f) Exercise any authority and perform all acts that a national bank may exercise or perform, with the consent and written approval of the Commissioner. The Commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for national banks is eliminated or modified.

(g) Provide for the performance of the services of a bank service corporation, such as data processing and bookkeeping, subject to any regulations adopted by the Commissioner.

(h) Unless otherwise specifically prohibited by federal law, sell annuities if licensed by the Commissioner of Insurance.

2. A bank may purchase, hold and convey real property:

(a) As is necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and for future site expansion. This investment must not exceed, except as otherwise provided in this section, 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures. The Commissioner may authorize any bank located in a city whose population is more than 10,000 to invest more than 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures, in its banking offices, furniture and fixtures.

(b) As is mortgaged to it in good faith by way of security for loans made or money due to the bank.

(c) As is permitted by NRS 662.103.

3. This section does not prohibit any bank from holding, developing or disposing of any real property it may acquire through the collection of debts due it. ~~Any~~ **Except as otherwise provided in subsection 4**, real property acquired through the collection of debts due it may not be held for longer

than ~~{10}~~ 5 years. It must be sold at private or public sale within 30 days thereafter. ~~{During the time that the bank holds the real property, the bank shall charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage per year as the Commissioner may require.}~~

4. A bank may request and the Commissioner may grant an extension of the period described in subsection 3 of not more than 5 years. The Commissioner shall not grant a bank more than one extension of the period prescribed in subsection 3 for any real property held by the bank.

Sec. 2. NRS 669.083 is hereby amended to read as follows:

669.083 1. A retail trust company licensed in this State shall maintain its principal office in this State.

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of any cash as a portion of the required ~~least portion of the~~ stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may reasonably require to protect the public interest.

Sec. 3. NRS 669.085 is hereby amended to read as follows:

669.085 1. ~~{The Commissioner may conduct a pre-opening examination of a retail trust company and, in}~~ In rendering a decision on an application for a license as a retail trust company, the Commissioner shall consider:

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) ~~{Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;}~~

~~—(d)~~ Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

~~†(e)†~~ (d) Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

~~†(f)†~~ (e) Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80b-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

~~†(g)†~~ (f) Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

~~†(h)†~~ (g) Any other factors that the Commissioner may reasonably require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, the Commissioner's investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

- (e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;
- (f) The competence and experience of proposed management of the retail trust company;
- (g) The extent and adequacy of proposed internal controls;
- (h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;
- (i) The reasonableness of business plans for retaining or acquiring additional equity capital;
- (j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;
- (k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;
- (l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and
- (m) Any other factor that the Commissioner may require.

Sec. 4. NRS 669.087 is hereby amended to read as follows:

669.087 1. A license issued pursuant to this chapter is not transferable or assignable. ~~Upon~~ **but upon** approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of NRS 669.085.

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who ~~acquires~~ **intends to acquire** control ~~as a result of a change of control~~ of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation **pursuant to NRS 669.160** to determine whether the person has a good

reputation for honesty, trustworthiness and integrity and is competent to ~~transact the business of a~~ **control the** trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies the application, the Commissioner may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 5. NRS 669.092 is hereby amended to read as follows:

669.092 1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) ~~Meet~~ **Provide proof satisfactory to the Commissioner that the retail trust company has met** all the requirements to do business as a trust company at an office in that state. ~~It~~, **including, without limitation, written documentation from the appropriate state agency that the retail trust company is authorized to do business in that state.**

Sec. 6. NRS 669.100 is hereby amended to read as follows:

669.100 1. No retail trust company may be organized or operated with a stockholders' equity of less than \$1,000,000, or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least ~~50~~ **25** percent of its required stockholders' equity in cash ~~unless the Commissioner approves a smaller amount.~~ **and at least an additional 25 percent of its required stockholders' equity in cash or cash equivalents comprising certificates of deposit, money market funds or other insured deposits. Cash equivalents held by a retail trust company pursuant to this subsection may, upon prior approval by the Commissioner, comprise investments in treasury bills, government obligations or commercial paper which, if acquired after October 1, 2011, must mature not later than 3 months after the date of acquisition by the retail trust company. Any certificate of deposit, money market fund, insured deposit, commercial paper, treasury bill or government obligation, other than an obligation of the United States or an obligation guaranteed by the United States, that is held as a cash equivalent by a retail trust company pursuant to this subsection must not**

exceed 10 percent of the total required stockholders' equity at the time the cash equivalent is purchased. The remaining ~~150 percent~~ amount of ~~its~~ the retail trust company's required stockholders' equity may be a different form of readily marketable securities, or with prior approval by the Commissioner, other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing. Any bond or other evidence of indebtedness held by a retail trust company pursuant to this subsection must have an investment grade credit rating and must have received a rating within one of the top three rating categories of Moody's Investors Service, Inc. or Standard and Poor's Ratings Services.

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

- (1) By October 1, 2010, \$500,000;
- (2) By October 1, 2011, \$750,000; and
- (3) By October 1, 2012, \$1,000,000; and

(b) Maintain ~~\$500,000~~ 25 percent of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

- (1) By October 1, 2010, \$350,000;
- (2) By October 1, 2011, \$400,000; and
- (3) By October 1, 2012, \$500,000; and

(b) Maintain ~~150~~ 25 percent of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 7. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

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

(3) Have not made a false statement of material fact on the application.

(4) Have not been an officer or member of the board of directors for an entity which had a license issued pursuant to the provisions of this chapter that was suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(5) Have not been an officer or member of the board of directors for a company which had a license as a trust company which 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 the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of NRS 669.083.

2. ~~Notice~~ ***After an investigation by the Commissioner pursuant to subsection 1, if the Commissioner finds any defect or deficiency in an application for licensure which would constitute grounds for denial of the application, written notice of such grounds for denial must be served personally or sent by certified mail to the applicant. The Commissioner shall allow the applicant an opportunity to cure any defect or deficiency in the application and, not later than 30 days after receipt of the notice of denial, to resubmit the application for approval.***

3. ***If a defect or deficiency in an application is not cured pursuant to subsection 2, written notice*** of the entry of an order refusing a license to a trust company must be ~~given in writing,~~ served personally or sent by certified mail to the company affected. The company, upon application, is entitled to a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

~~3.~~ 4. The order of the Commissioner is final for the purposes of judicial review.

Sec. 8. NRS 669.281 is hereby amended to read as follows:

669.281 **1.** The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust

company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a retail trust company who is removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the retail trust company and the officer, director, manager or employee who is removed from office. Within 5 days after the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 9. This act becomes effective upon passage and approval.

Amendment No. 811.

"SUMMARY—Revises certain provisions governing financial institutions. (BDR 55-737)"

"AN ACT relating to financial institutions; revising provisions governing the period that a bank may hold certain real property; removing provisions requiring a bank annually to charge off a certain percentage of the value of certain real property held by the bank and acquired as a result of a debt owed to the bank; revising provisions governing the review of certain applications for licensure by the Commissioner of Financial Institutions; revising provisions relating to the control of a retail trust company; revising provisions governing the assets which certain trust companies are required to maintain; revising provisions governing applications for a license to operate a retail trust company; authorizing certain persons to appeal certain decisions of the Commissioner; **requiring the State Controller to develop and operate with financial institutions a data-match system for the collection of certain debts owed to the State;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes a bank to hold real property that the bank acquires through the collection of debts owed to it for up to 10 years, and **section 1** of this bill reduces that period to 5 years, except that a bank may request an extension of that period from the Commissioner of Financial Institutions of not more than 5 years. Existing law also requires a bank to charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage if so required by the Commissioner. (NRS 662.015) **Section 1** removes the requirement that a bank annually charge off a certain percentage of the value of such real property.

Existing law charges the Commissioner with certain duties and responsibilities related to retail trust companies, including investigating

companies that apply for licensure as a retail trust company, issuing licenses to qualified companies to operate as a retail trust company and removing from office an officer, director, manager or employee of a retail trust company for certain conduct. (NRS 657.180, 669.085, 669.090, 669.130, 669.150, 669.160, 669.281) **Section 3** of this bill requires the Commissioner to consider certain criteria related to the potential long-term success of a trust company before approving the company's application for licensure to operate as a retail trust company. **Section 4** of this bill requires a person who intends to obtain control of a retail trust company to submit an application for licensure to the Commissioner. **Section 7** of this bill requires the Commissioner to provide to an applicant for licensure as a retail trust company written notice of any grounds for denial of an application and authorizes the applicant to cure any defect or deficiency in the application and resubmit the application within a certain period. **Section 8** of this bill provides that a person who is removed from office by the Commissioner may appeal his or her removal from office within a certain period.

Existing law requires a retail trust company to maintain at least 50 percent of its required stockholders' equity in cash, unless the Commissioner approves a different amount, with the remaining amount to be held in the form of readily marketable securities or certain other assets that may be approved by the Commissioner. Existing law also requires a noncustodial trust company to maintain 50 percent of its required minimum capital in cash. (NRS 669.100) **Section 6** of this bill requires a retail trust company to maintain a certain amount of its required stockholders' equity in the form of cash or certain cash equivalents and authorizes a retail trust company to hold the remaining amount of the required stockholders' equity in the form of readily marketable securities or certain other assets upon the approval of the Commissioner. **Section 6** further requires that bonds or other evidence of indebtedness held by a retail trust company as part of its required stockholders' equity meet certain investment standards. **Section 6** also requires a noncustodial trust company to maintain 25 percent of its required minimum capital in the form of cash.

Section 10 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts owed to the State. Financial institutions in this State must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing outstanding debts to the State. Financial institutions are then required to encumber assets held in the financial institution by the debtors to pay their debts.

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

Section 1. NRS 662.015 is hereby amended to read as follows:

662.015 1. In addition to the powers conferred by law upon private corporations and limited-liability companies, a bank may:

(a) Exercise by its board of directors, managers or authorized officers and agents, subject to law, all powers necessary to carry on the business of banking by:

(1) Discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of indebtedness;

(2) Receiving deposits;

(3) Buying and selling exchange, coin and bullion; and

(4) Loaning money on personal security or real and personal property.

➤ At the time of making loans, banks may take and receive interest or discounts in advance.

(b) Adopt regulations for its own government not inconsistent with the Constitution and laws of this State.

(c) Issue, advise and confirm letters of credit authorizing the beneficiaries to draw upon the bank or its correspondents.

(d) Receive money for transmission.

(e) Establish and become a member of a clearinghouse association and pledge assets required for its qualification.

(f) Exercise any authority and perform all acts that a national bank may exercise or perform, with the consent and written approval of the Commissioner. The Commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for national banks is eliminated or modified.

(g) Provide for the performance of the services of a bank service corporation, such as data processing and bookkeeping, subject to any regulations adopted by the Commissioner.

(h) Unless otherwise specifically prohibited by federal law, sell annuities if licensed by the Commissioner of Insurance.

2. A bank may purchase, hold and convey real property:

(a) As is necessary for the convenient transaction of its business, including furniture and fixtures, with its banking offices and for future site expansion. This investment must not exceed, except as otherwise provided in this section, 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures. The Commissioner may authorize any bank located in a city whose population is more than 10,000 to invest more than 60 percent of its stockholders' or members' equity, plus subordinated capital notes and debentures, in its banking offices, furniture and fixtures.

(b) As is mortgaged to it in good faith by way of security for loans made or money due to the bank.

(c) As is permitted by NRS 662.103.

3. This section does not prohibit any bank from holding, developing or disposing of any real property it may acquire through the collection of debts due it. ~~Any~~ **Except as otherwise provided in subsection 4**, real property acquired through the collection of debts due it may not be held for longer than ~~10~~ **5** years. It must be sold at private or public sale within 30 days thereafter. ~~During the time that the bank holds the real property, the bank~~

shall charge off the real property on a schedule of not less than 10 percent per year, or at a greater percentage per year as the Commissioner may require.}

4. A bank may request and the Commissioner may grant an extension of the period described in subsection 3 of not more than 5 years. The Commissioner shall not grant a bank more than one extension of the period prescribed in subsection 3 for any real property held by the bank.

Sec. 2. NRS 669.083 is hereby amended to read as follows:

669.083 1. A retail trust company licensed in this State shall maintain its principal office in this State.

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of **any cash as a portion of** the required ~~cash portion of the~~ stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may **reasonably** require to protect the public interest.

Sec. 3. NRS 669.085 is hereby amended to read as follows:

669.085 1. ~~{The Commissioner may conduct a pre-opening examination of a retail trust company and, in }~~ **In** rendering a decision on an application for a license as a retail trust company, **the Commissioner shall** consider:

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

~~(c) {Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;~~

~~—(d)}~~ Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient

trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

~~{(e)}~~ **(d)** Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

~~{(f)}~~ **(e)** Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. § 80b-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

~~{(g)}~~ **(f)** Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

~~{(h)}~~ **(g)** Any other factors that the Commissioner may *reasonably* require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on the Commissioner's assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, the Commissioner's investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;

(k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;

(l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and

(m) Any other factor that the Commissioner may require.

Sec. 4. NRS 669.087 is hereby amended to read as follows:

669.087 1. A license issued pursuant to this chapter is not transferable or assignable ~~[- Upon]~~, **but upon** approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of NRS 669.085.

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who ~~acquires~~ **intends to acquire** control ~~as a result of a change of control~~ of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation **pursuant to NRS 669.160** to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to

~~{transact the business of a}~~ **control the** trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies the application, the Commissioner may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 5. NRS 669.092 is hereby amended to read as follows:

669.092 1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) ~~{Meet}~~ **Provide proof satisfactory to the Commissioner that the retail trust company has met** all the requirements to do business as a trust company at an office in that state ~~{ }~~, **including, without limitation, written documentation from the appropriate state agency that the retail trust company is authorized to do business in that state.**

Sec. 6. NRS 669.100 is hereby amended to read as follows:

669.100 1. No retail trust company may be organized or operated with a stockholders' equity of less than \$1,000,000, or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least ~~{50}~~ **25** percent of its required stockholders' equity in cash ~~{unless the Commissioner approves a smaller amount.}~~ **and at least an additional 25 percent of its required stockholders' equity in cash or cash equivalents comprising certificates of deposit, money market funds or other insured deposits. Cash equivalents held by a retail trust company pursuant to this subsection may, upon prior approval by the Commissioner, comprise investments in treasury bills, government obligations or commercial paper which, if acquired after October 1, 2011, must mature not later than 3 months after the date of acquisition by the retail trust company. Any certificate of deposit, money market fund, insured deposit, commercial paper, treasury bill or government obligation, other than an obligation of the United States or an obligation guaranteed by the United States, that is held as a cash equivalent by a retail trust company pursuant to this subsection must not exceed 10 percent of the total required stockholders' equity at the time the**

cash equivalent is purchased. The remaining ~~{50-percent}~~ amount of ~~{its}~~ the retail trust company's required stockholders' equity may be a different form of readily marketable securities , or with prior approval by the Commissioner , other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing. Any bond or other evidence of indebtedness held by a retail trust company pursuant to this subsection must have an investment grade credit rating and must have received a rating within one of the top three rating categories of Moody's Investors Service, Inc. or Standard and Poor's Ratings Services.

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

- (1) By October 1, 2010, \$500,000;
- (2) By October 1, 2011, \$750,000; and
- (3) By October 1, 2012, \$1,000,000; and

(b) Maintain ~~{\$500,000}~~ **25 percent** of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

- (1) By October 1, 2010, \$350,000;
- (2) By October 1, 2011, \$400,000; and
- (3) By October 1, 2012, \$500,000; and

(b) Maintain ~~{50}~~ **25 percent** of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 7. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within 90 days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

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

(3) Have not made a false statement of material fact on the application.

(4) Have not been an officer or member of the board of directors for an entity which had a license issued pursuant to the provisions of this chapter that was suspended or revoked within the 10 years immediately preceding the date of the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(5) Have not been an officer or member of the board of directors for a company which had a license as a trust company which 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 the application, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of NRS 669.083.

2. ~~{Notice}~~ *After an investigation by the Commissioner pursuant to subsection 1, if the Commissioner finds any defect or deficiency in an application for licensure which would constitute grounds for denial of the application, written notice of such grounds for denial must be served personally or sent by certified mail to the applicant. The Commissioner shall allow the applicant an opportunity to cure any defect or deficiency in the application and, not later than 30 days after receipt of the notice of denial, to resubmit the application for approval.*

3. *If a defect or deficiency in an application is not cured pursuant to subsection 2, written notice of the entry of an order refusing a license to a trust company must be ~~{given in writing,}~~ served personally or sent by certified mail to the company affected. The company, upon application, is entitled to a hearing before the Commissioner, but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.*

~~{3-}~~ 4. The order of the Commissioner is final for the purposes of judicial review.

Sec. 8. NRS 669.281 is hereby amended to read as follows:

669.281 1. The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust

company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.

2. An officer, director, manager or employee of a retail trust company who is removed from office pursuant to subsection 1 may appeal his or her removal by filing a written request for a hearing with the Commissioner within 10 days after the effective date of his or her removal. The Commissioner shall conduct the hearing after providing at least 5 days' written notice to the retail trust company and the officer, director, manager or employee who is removed from office. Within 5 days after the hearing, the Commissioner shall enter an order affirming or disaffirming the removal of the person from office. An order of the Commissioner entered pursuant to this subsection is final for the purposes of judicial review.

Sec. 9. NRS 239A.070 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460, ~~or~~ or section 10 of this act.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

Sec. 10. Chapter 353C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Controller shall enter into agreements with financial institutions doing business in this State to coordinate the development and operation of a system for matching data, using automated exchanges of data to the maximum extent feasible.

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

3. A financial institution in this State shall:

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

(b) Use the system to provide to the State Controller for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification of each person who maintains an account at the financial institution, as identified by the State Controller by name and social security number or other number assigned for taxpayer identification.

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

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

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

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

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

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

provided to the State Controller in accordance with the order for the payment of a debt.

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

7. As used in this section, "financial institution" has the meaning ascribed to it in NRS 239A.030.

~~{Sec. 9.}~~ **Sec. 11.** This act becomes effective upon passage and approval.

Senator Schneider moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 136.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 365.

The following Assembly amendment was read:

Amendment No. 639.

"SUMMARY—Eliminates certain mandates pertaining to school districts and public schools in this State. (BDR 34-184)"

"AN ACT relating to education; eliminating certain requirements imposed by statute on school districts and public schools in this State; ~~{authorizing the board of trustees of each school district to review certain plans, policies, programs and procedures;}~~ **requiring the board of trustees of certain school districts to adopt a pilot program to provide a program of small learning communities in certain middle schools, junior high schools and high schools;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of trustees of each school district is required to adopt a policy to engage certain administrators in the classroom. (NRS 391.235) **Section 21.5** of this bill makes the adoption of such a policy permissive rather than mandatory.

Under existing federal law, a school which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a school improvement plan. (20 U.S.C. § 6316(b)(3)) Also under existing federal law, a school district which is served under Title I and which is identified as needing improvement pursuant to the federal law is required to develop and implement a plan for improvement for the school district. (20 U.S.C. § 6316(c)(7)) Under existing state law, the board of trustees of each school district is required to prepare a plan to improve the achievement of pupils enrolled in the school district. (NRS 385.348) **Also under existing law, the principal of each public school is required to prepare a plan to improve the achievement of pupils enrolled in the school.** This bill repeals ~~{that}~~ **both of those** state statutory ~~{requirement}~~ **requirements relating to plans for improvement.**

Under existing law, **certain** school districts in this State are required to adopt a policy providing for the creation of small learning communities for certain pupils enrolled in middle school or junior high school and high school. (NRS 388.171, 388.215) ~~[This bill repeals these statutory requirements.]~~

~~— Under existing law, the boards of trustees of school districts are required to enforce in the public schools the use of textbooks prescribed by the State Board of Education. (NRS 390.220) This bill repeals that statutory requirement.]~~ **Section 21.3 of this bill requires the board of trustees of each school district which includes at least one high school with an enrollment of 1,200 pupils or more to adopt a pilot program of small learning communities for implementation in at least 50 percent of those high schools. Section 36.3 of this bill requires the board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more to adopt a pilot program of small learning communities for pupils in their initial year of enrollment for implementation in at least 50 percent of those schools. Sections 36.5 and 38 of this bill require both pilot programs to be implemented beginning with the 2013-2014 school year.**

Under existing law, effective on July 1, 2011, an academic plan must be developed for each pupil enrolled in middle school or junior high school in accordance with a policy adopted by the board of trustees of the school district. **Section 36.5** of this bill extends the date for adoption of such a policy to January 1, 2013, for implementation beginning with the 2013-2014 school year.

~~[Section 37.5 of this bill authorizes the board of trustees of each school district to review certain plans, policies, programs and procedures. If the board of trustees of a school district conducts such a review, the board of trustees is required to prepare a written report on the plans, policies, programs and procedures which the board of trustees determines place an unfunded mandate and an undue financial hardship on the school district and submit the written report, on or before August 1, 2012, to the Legislative Committee on Education and the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.]~~

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 385.359 is hereby amended to read as follows:

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

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218E.615, the:

(1) Annual report of accountability prepared by:

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

(II) The board of trustees of each school district pursuant to NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by ~~the~~ the State Board pursuant to NRS 385.34691 ~~is and~~
~~— (I) The~~ ~~(II) The board of trustees of each school district pursuant to NRS 385.348; and~~
~~— (III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any, or if such a plan has not been prepared, the~~ , any turnaround plan for the schools identified by the Bureau, if any, implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, as applicable.

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

(c) Submit a written report to and consult with each school district regarding any methods by which the district may improve the accuracy of the report required pursuant to subsection 2 of NRS 385.347 ~~and the plan to improve the achievement of pupils required pursuant to NRS 385.348,~~ and the purposes for which the report ~~and plan to improve are~~ is used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 of NRS 385.347 and the:

~~(1) Plan to improve the achievement of pupils required pursuant to NRS 385.357;~~

~~— (2) Turnaround plan for the school implemented pursuant to NRS 385.37603; or~~

~~— (3) (2) Plan for restructuring the school implemented pursuant to NRS 385.37607,~~

↳ whichever is applicable for the school.

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

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

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

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

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

Sec. 4. (Deleted by amendment.)

Sec. 4.5. NRS 385.36127 is hereby amended to read as follows:

385.36127 1. If a school support team is established pursuant to the regulations adopted by the State Board pursuant to NRS 385.361, the support team shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 of NRS 385.347 is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) ~~Review the most recent plan to improve the achievement of the school's pupils.~~

~~—(d)~~ Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

~~(e)~~ **(d)** Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

~~(f)~~ **(e)** Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

~~(g)~~ **(f)** Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out ~~the plan for improvement of the school,~~ the turnaround plan for the school or the plan for restructuring the school, whichever is applicable for the school. For a charter school sponsored by the State Board, the support team shall make the recommendations to the State Board and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

~~(h)~~ **(g)** In accordance with its findings pursuant to this section and NRS 385.36129, submit, ~~on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357, or submit,~~ on or before May 1, written recommendations for revisions to the turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, whichever is applicable for the school. The written revisions or recommendations, as applicable, must:

(1) Comply ~~with NRS 385.357 if the school has demonstrated need for improvement for less than 5 years or~~ with NRS 385.37603 or 385.37607, as applicable, if the school has demonstrated need for improvement for 5 or more consecutive years;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

~~[(i)] Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the State Board, the Department shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, that institution shall assist the school with carrying out and monitoring the plan for improvement of the school.~~

~~—(j)]~~ (h) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

~~[(k)]~~ (i) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph ~~[(j)]~~ (h) of subsection 1.

Sec. 5. (Deleted by amendment.)

Sec. 5.5. NRS 385.36129 is hereby amended to read as follows:

385.36129 1. In addition to the duties prescribed in NRS 385.36127, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the ~~most recent plan to improve the achievement of the school's pupils, the~~ turnaround plan for the school or the plan for restructuring the school, ~~whichever is~~ **if** applicable for the school, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The ~~written revisions to the plan to improve the achievement of the school's pupils or~~ written recommendations for revisions to the turnaround plan for the school or the plan for restructuring the school, ~~whichever is~~ **if** applicable for the school, submitted by the support team pursuant to NRS 385.36127;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; and

(7) A description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347.

2. On or before November 1, the support team shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➤ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. NRS 385.362 is hereby amended to read as follows:

385.362 ~~1.1~~ If a public school fails to make adequate yearly progress for 1 year:

~~(a) 1.~~ Except as otherwise provided in ~~paragraph (b),~~ **subsection 2,** the board of trustees of the school district in which the school is located shall ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. For a charter school sponsored by the school district, the board of trustees shall provide the technical assistance to the charter school in conjunction with the governing body of the charter school.

~~(b) 2.~~ For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school, that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

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

Sec. 7. (Deleted by amendment.)

Sec. 7.5. NRS 385.37603 is hereby amended to read as follows:

385.37603 1. If a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 3 of NRS 385.37605, ~~repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and,~~ not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

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

(b) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school.

2. If a charter school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years for failure to make adequate yearly progress:

(a) The governing body of the charter school shall:

(1) Except as otherwise provided in subsection 3 of NRS 385.37605, ~~repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and,~~ not later than September 30, implement the turnaround plan to improve the academic achievement of pupils enrolled in the school developed pursuant to NRS 385.3745.

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on a form prescribed by the Department pursuant to NRS 385.382.

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

(c) For a charter school sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(d) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the charter school.

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 385.37607 is hereby amended to read as follows:

385.37607 1. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 5 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Except as otherwise provided in subsection 2, ~~repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and,~~ not later than September 30, implement the plan for restructuring the school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(2) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382;

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

(4) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(5) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Except as otherwise provided in subsection 3, ~~repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and,~~ not later than September 30, implement the plan for restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Sponsored by the State Board or by a college or university within the Nevada System of Higher Education, the Department shall:

(I) Except as otherwise provided in subsection 3, ~~repeal the plan to improve the academic achievement of pupils developed pursuant to NRS 385.357 and,~~ not later than September 30, implement the plan for

restructuring the charter school developed pursuant to NRS 385.3746 if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto;

(II) Provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382;

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

(IV) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(3) Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(c) The State Board shall prescribe by regulation the actions which the Department may take to monitor the implementation of any corrective action at the school or charter school.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for a school, including, without limitation, the development and implementation of a plan for restructuring, for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district or the Department proceeds with a plan for restructuring, the board of trustees or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 9. NRS 385.3785 is hereby amended to read as follows:

385.3785 1. The Commission shall:

(a) Establish a program of educational excellence designed exclusively for pupils enrolled in kindergarten through grade 6 in public schools in this State based upon:

(1) The plan to improve the achievement of pupils prepared by the State Board pursuant to NRS 385.34691;

(2) The ~~plan to improve the achievement of pupils prepared by the board of trustees of each school district pursuant to NRS 385.348;~~

~~— (3) The plan to improve the achievement of pupils prepared by the principal of each school pursuant to NRS 385.357, which may include a program of innovation, the~~ turnaround plan for the school implemented pursuant to NRS 385.37603 or the plan for restructuring the school implemented pursuant to NRS 385.37607, ~~whichever is~~ if applicable for the school; and

~~{(4)}~~ (3) Any other information that the Commission considers relevant to the development of the program of educational excellence.

(b) Identify programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

(c) Develop a concise application and simple procedures for the submission of applications by public schools and consortiums of public schools, including, without limitation, charter schools, for participation in a program of educational excellence and for grants of money from the Account. Grants of money must be made for programs designed for the achievement of pupils ~~{that are linked to the plan to improve the achievement of pupils}~~ or for innovative programs, or both, or that are linked to the turnaround plan for the school or the plan for restructuring the school, if applicable, or for innovative programs, or both. The Commission shall not award a grant of money from the Account for a program to provide full-day kindergarten. All public schools and consortiums of public schools, including, without limitation, charter schools, are eligible to submit such an application, regardless of whether the schools have made adequate yearly progress or failed to make adequate yearly progress. A public school or a consortium of public schools selected for participation may be approved by the Commission for participation for a period not to exceed 2 years, but may reapply.

(d) Prescribe a long-range timeline for the review, approval and evaluation of applications received from public schools and consortiums of public schools that desire to participate in the program.

(e) Establish guidelines for the review, evaluation and approval of applications for grants of money from the Account, including, without limitation, consideration of the list of priorities of public schools provided by the Department pursuant to subsection 6. To ensure consistency in the

review, evaluation and approval of applications, if the guidelines authorize the review and evaluation of applications by less than the entire membership of the Commission, money must not be allocated from the Account for a grant until the entire membership of the Commission has reviewed and approved the application for the grant.

(f) Prescribe accountability measures to be carried out by a public school that participates in the program if that public school does not meet the annual measurable objectives established by the State Board pursuant to NRS 385.361, including, without limitation:

(1) The specific levels of achievement expected of schools that participate; and

(2) Conditions for schools that do not meet the grant criteria but desire to continue participation in the program and receive money from the Account, including, without limitation, a review of the leadership at the school and recommendations regarding changes to the appropriate body.

(g) Determine the amount of money that is available from the Account for those public schools and consortiums of public schools that are selected to participate in the program.

(h) Allocate money to public schools and consortiums of public schools from the Account. Allocations must be distributed not later than August 15 of each year.

(i) Establish criteria for public schools and consortiums of public schools that participate in the program and receive an allocation of money from the Account to evaluate the effectiveness of the allocation in improving the achievement of pupils, including, without limitation, a detailed analysis of:

(1) The achievement of pupils enrolled at each school that received money from the allocation based upon measurable criteria , including, without limitation, if applicable for the school, measurable criteria identified in ~~it, as applicable,~~ the:

~~(I) Plan to improve the achievement of pupils for the school prepared pursuant to NRS 385.357;~~

~~—(II)—~~ Turnaround plan for the school implemented pursuant to NRS 385.37603; or

~~—(III)—~~ (II) Plan for restructuring the school implemented pursuant to NRS 385.37607;

(2) If applicable, the effectiveness of the program of innovation on the achievement of pupils and the overall effectiveness for pupils and staff; and

~~(3) The implementation of the applicable plans for improvement, including, without limitation, an analysis of whether the school is meeting the measurable objectives identified in the plan; and~~

~~—(4)—~~ The attainment of measurable progress on the annual list of adequate yearly progress of school districts and schools.

2. To the extent money is available, the Commission shall make allocations of money to public schools and consortiums of public schools for effective programs for grades 7 through 12 that are designed to improve the

achievement of pupils and effective programs of innovation for pupils. In making such allocations, the Commission shall comply with the requirements of this section.

3. An application submitted pursuant to this section must include a written statement which:

(a) Indicates whether the public school or consortium of public schools is submitting the application for the continuation of an existing program or for the establishment of a new program; and

(b) Identifies all other sources of money that the public school or consortium of public schools has requested or received for the continuation or establishment of:

(1) The program for which the application is submitted; or

(2) A substantially similar program.

4. The Commission shall ensure, to the extent practicable, that grants of money provided pursuant to this section reflect the economic and geographic diversity of this State.

5. If a public school or consortium of public schools that receives money pursuant to subsection 1 or 2:

(a) Does not meet the criteria for effectiveness as prescribed in paragraph (i) of subsection 1;

(b) Does not, as a result of the program for which the grant of money was awarded, show improvement in the achievement of pupils, as determined in an evaluation conducted pursuant to subsection 3 of NRS 385.379; or

(c) Does not implement the program for which the money was received, as determined in an audit conducted pursuant to subsection 4 of NRS 385.3789 or an evaluation conducted pursuant to subsection 3 of NRS 385.379,

➤ over a 2-year period, the Commission may consider not awarding future allocations of money to that public school or consortium of public schools.

6. On or before July 1 of each year, the Department shall provide a list of priorities of public schools that indicates:

(a) The adequate yearly progress status of schools in the immediately preceding year; and

(b) The public schools that are considered Title I eligible by the Department based upon the poverty level of the pupils enrolled in a school in comparison to the poverty level of the pupils in the school district as a whole, ➤ for consideration by the Commission in its development of procedures for the applications.

7. A public school, including, without limitation, a charter school, or a consortium of public schools may request assistance from the school district in which the school is located in preparing an application for a grant of money pursuant to this section. A school district shall assist each public school or consortium of public schools that requests assistance pursuant to this subsection to ensure that the application of the school:

(a) Is based directly upon, ~~as applicable,~~ **if applicable for the school,** the:

(1) ~~Plan to improve the achievement of pupils prepared for the school pursuant to NRS 385.357;~~

~~—(2)—~~ Turnaround plan for the school implemented pursuant to NRS 385.37603; or

~~—(3)—~~ (2) Plan for restructuring the school implemented pursuant to NRS 385.37607;

(b) Is developed in accordance with the criteria established by the Commission; and

(c) Is complete and complies with all technical requirements for the submission of an application.

↪ A school district may make recommendations to the individual schools and consortiums of public schools. Such schools and consortiums of public schools are not required to follow the recommendations of a school district.

8. In carrying out the requirements of this section, the Commission shall review and consider the programs of remedial study adopted by the Department pursuant to NRS 385.389, the list of approved providers of supplemental educational services maintained by the Department pursuant to NRS 385.384 and the recommendations submitted by the Committee pursuant to NRS 218E.615 concerning programs, practices and strategies that have proven effective in improving the academic achievement and proficiency of pupils.

9. The Commission shall not award a grant of money from the Account for a program of remedial study that is available commercially unless that program has been adopted by the Department pursuant to NRS 385.389.

10. If a consortium of public schools is formed for the purpose of submitting an application pursuant to this section, the public schools within the consortium do not need to be located within the same school district.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. NRS 386.605 is hereby amended to read as follows:

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to subsection 2 of NRS 385.347 to the board of trustees of the school district in which the charter school is located for inclusion in the report of the school district pursuant to that section. The information must be submitted by the charter school in a format prescribed by the board of trustees.

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and pursuant to NRS ~~385.357,~~ 385.3745 or 385.3746, ~~whichever is~~ **if** applicable for the school, consult with the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (Deleted by amendment.)

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 21.3. NRS 388.215 is hereby amended to read as follows:

388.215 1. The board of trustees of each school district which includes at least one high school with an enrollment of 1,200 pupils or more, including pupils enrolled in ninth grade, shall adopt a ~~policy for each of those high schools~~ **pilot program** to provide a program of small learning communities. The ~~policy~~ **pilot program must be implemented in at least 50 percent of the high schools in the school district with an enrollment of 1,200 pupils or more and** must require:

(a) Where practicable, the designation of a separate area geographically within the high school where the pupils enrolled in ninth grade attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in ninth grade, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in ninth grade, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in ninth grade in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator; and

(3) Appropriate adult mentors,

↪ specifically for the pupils enrolled in ninth grade.

2. The principal of ~~each~~ **a** high school in which 1,200 pupils or more are enrolled, including pupils enrolled in ninth grade, **and which the board of trustees of the school district has designated to participate in the pilot program adopted pursuant to subsection 1** shall:

(a) Carry out a program of small learning communities in accordance with the ~~policy prescribed by the board of trustees pursuant to subsection 1;~~ **pilot program;** and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods that are used to focus on the pupils enrolled in ninth grade at the school.

Sec. 21.5. NRS 391.235 is hereby amended to read as follows:

391.235 1. The board of trustees of each school district ~~shall~~ *may* adopt a policy that sets forth procedures and conditions for a program to engage administrators employed by the school district at the district level in annual classroom instruction, observation and other activities in a manner that is appropriate for the responsibilities, position and duties of the administrators. ~~The~~ *If the board of trustees adopts such a policy, the* policy must require each administrator employed by the school district at the district level to:

(a) If the administrator holds a license to teach, provide instruction in a core academic subject in a classroom for at least 1 regularly scheduled full instructional day in each school year; or

(b) If the administrator does not hold a license to teach:

(1) Personally observe a classroom for at least one-half of a regularly scheduled full instructional day in each school year; or

(2) Otherwise participate in activities with pupils in the classroom in each school year, including, without limitation, serving as a guest speaker in the classroom, reading to pupils in elementary school and participating in career day.

2. ~~1A~~ *If the board of trustees of a school district adopts a policy pursuant to subsection 1, a* district-level administrator may choose a school within the school district at which the administrator will carry out the ~~requirements~~ *provisions* of this section.

3. ~~1A~~ *If the board of trustees of a school district adopts a policy pursuant to subsection 1, an* administrator who provides instruction pursuant to paragraph (a) of subsection 1 must be assigned as a substitute teacher for the full instructional day in which the administrator carries out the ~~requirements~~ *provisions* of this section.

4. The provisions of this section do not apply to administrators who are employed by a school district to provide administrative service at the school level, including, without limitation, a principal or vice principal.

5. As used in this section, "core academic subject" means the core academic subjects designated pursuant to NRS 389.018.

Sec. 22. NRS 391.298 is hereby amended to read as follows:

391.298 If the board of trustees of a school district or the superintendent of schools of a school district schedules a day or days for the professional development of teachers or administrators employed by the school district:

1. The primary focus of that scheduled professional development must be to improve the achievement of the pupils enrolled in the school district. ~~It is set forth in the:~~

~~—(a) Plan to improve the achievement of pupils enrolled in the school district prepared pursuant to NRS 385.348;~~

~~—(b) Plan to improve the achievement of pupils prepared pursuant to NRS 385.357;~~

~~[(c)] [(b) Turnaround plan for the school implemented pursuant to NRS 385.37603; or]~~

~~[(d)] [(c) Plan for restructuring the school implemented pursuant to NRS 385.37607;~~

~~as applicable.]~~

2. The scheduled professional development must be structured so that teachers attend professional development that is designed for the specific subject areas or grades taught by those teachers.

Sec. 23. NRS 391.540 is hereby amended to read as follows:

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of each such school district may submit recommendations to the appropriate governing body for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b) ~~[- review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program] and [-]~~ as deemed necessary by the governing body, review the:

(1) ~~[- Plans to improve the achievement of pupils prepared pursuant to NRS 385.357;~~

~~—(2) [-] Turnaround plans for schools implemented pursuant to NRS 385.37603; and~~

~~[-(3) [-] Plans for restructuring schools implemented pursuant to NRS 385.37607,~~

~~↳ for individual schools within the primary jurisdiction of the regional training program. [-] **which are required to implement a turnaround plan or plan for restructuring.**~~

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education and the board of trustees of a school district may request the governing body of the regional training program that serves the school district to provide training, participate in a program or otherwise perform a service that is in addition to the duties of the regional training program that are set forth in the plan adopted pursuant to this section or otherwise required by statute. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations. The governing body of a regional training program may, but is not required to, grant a request pursuant to this subsection.

Sec. 24. (Deleted by amendment.)

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)

Sec. 33. (Deleted by amendment.)

Sec. 34. (Deleted by amendment.)

Sec. 35. (Deleted by amendment.)

Sec. 36. (Deleted by amendment.)

Sec. 36.3. Section 3 of chapter 311, Statutes of Nevada 2009, at page 1332, is hereby amended to read as follows:

Sec. 3. 1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a ~~policy for each of those middle schools and junior high schools~~ **pilot program** to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The ~~policy~~ **pilot program must be implemented in at least 50 percent of the middle schools and junior high schools in the school district with an enrollment of 500 pupils or more and** must require:

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator or his designee; and

(3) Appropriate adult mentors,

↳ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of ~~each~~ a middle school or junior high school in which 500 pupils or more are enrolled and which the board of trustees of the school district has designated to participate in the pilot program adopted pursuant to subsection 1 shall:

(a) Carry out a program of small learning communities in accordance with the ~~policy prescribed by the board of trustees pursuant to subsection 1;~~ pilot program; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to section 5 of this act.

Sec. 36.5. Section 7 of chapter 311, Statutes of Nevada 2009, at page 1334, is hereby amended to read as follows:

Sec. 7. 1. The board of trustees of each school district shall adopt the policy required by section 2 of this act not later than January 1, 2013, for implementation beginning with the 2013-2014 School Year. On or before June 1, 2012, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policy required by section 2 of this act, including, without limitation, a plan for the implementation of that policy beginning with the 2013-2014 School Year. On or before July 1, 2012, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

2. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt the pilot program required by section 3 of this act not later than January 1, 2013, for implementation beginning with the 2013-2014 School Year. On or before June 1, 2012, the board of trustees of each such school district shall provide

a report to the Superintendent of Public Instruction on the status of the adoption of the pilot program required by section 3 of this act, including, without limitation, a plan for the implementation of the pilot program beginning with the 2013-2014 School Year. On or before July 1, 2012, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

3. The board of trustees of each school district shall adopt the policies required by sections ~~{2,} {3,}~~ 5 and 6 of this act not later than January 1, 2011, for implementation beginning with the 2011-2012 School Year.

~~{2,} {3,}~~ **4.** On or before June 1, 2010, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policies required by sections ~~{2,} {3,}~~ 5 and 6 of this act, including, without limitation, a plan for implementation of those policies beginning with the 2011-2012 School Year. On or before July 1, 2010, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

Sec. 36.7. Section 8 of chapter 311, Statutes of Nevada 2009, at page 1334, is hereby amended to read as follows:

Sec. 8. 1. This section and section 7 of this act become effective on July 1, 2009.

2. Sections ~~{2} {3 to} 4, 5 and 6 {, inclusive,}~~ of this act become effective on July 1, 2009, for the purpose of adopting the policies required by sections ~~{2,} {3,}~~ 5 and 6 of this act and on July 1, 2011, for all other purposes.

3. Section 2 of this act becomes effective on July 1, 2009, for the purpose of adopting the policy required by that section and on July 1, 2013, for all other purposes.

4. Section 3 of this act becomes effective on July 1, 2011, for the purposes of adopting the pilot program required by that section and on July 1, 2013, for all other purposes.

Sec. 37. NRS 385.348 ~~{, 388.171, 388.215}~~ **and 385.357** ~~{and 390.220}~~ are hereby repealed.

Sec. 37.5. ~~{1. The board of trustees of each school district may review the plans, policies, programs and procedures that the board of trustees is required to implement pursuant to title 34 of NRS or pursuant to federal law to determine which plans, policies, programs and procedures place an unfunded mandate and an undue financial hardship upon the school district. If the board of trustees of a school district conducts such a review, the review must include, without limitation, the:~~

- ~~—(a) Plans to improve the academic achievement of pupils;~~
- ~~—(b) Academic plans for certain pupils enrolled in middle school or junior high school and high school;~~

- ~~—(c) Policies for peer mentoring;~~
- ~~—(d) Policies for the provision of a safe and respectful learning environment;~~
- ~~—(e) Policies for pupil-led conferences;~~
- ~~—(f) Plans for the implementation of statutes;~~
- ~~—(g) Procedures for reporting the use of physical restraint and mechanical restraint;~~
- ~~—(h) Procedures for the creation of advisory boards to review school attendance; and~~
- ~~—(i) Plans for responding to a crisis.~~
- ~~2. If the board of trustees of a school district reviews the plans, policies, programs and procedures pursuant to subsection 1, the board of trustees shall prepare a written report of its review. The report must include, without limitation:~~
 - ~~—(a) The name of each plan, policy, program or procedure which the board of trustees determines places an unfunded mandate and an undue financial hardship upon the school district;~~
 - ~~—(b) A description of the plan, policy, program or procedure;~~
 - ~~—(c) The costs incurred by the school district for implementing the plan, policy, program or procedure and an identification of how much money the school district receives from the State or Federal Government for such implementation; and~~
 - ~~—(d) The effectiveness of the plan, policy, program or procedure in improving the academic achievement of pupils enrolled in the school district, if applicable, including, without limitation, the assessment of the school district as to whether the plan, policy, program or procedure should continue.~~
- ~~3. If the board of trustees of a school district prepares a written report pursuant to subsection 2, the board of trustees shall, on or before August 1, 2012, submit the written report to the:~~
 - ~~—(a) Legislative Committee on Education; and~~
 - ~~—(b) Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.~~

Sec. 38. ~~{This}~~

1. This section and section 36.7 of this act become effective upon passage and approval.

2. Sections 1 to 21, inclusive, 21.5 to 36.5, inclusive, and 37 of this act ~~{becomes}~~ become effective on July 1, 2011.

3. Section 21.3 of this act becomes effective on July 1, 2011, for the purpose of adopting the pilot program required by that section and on July 1, 2013, for all other purposes.

TEXT OF REPEALED SECTIONS

385.348 Plan by school district to improve achievement of pupils: Preparation; contents; submission; annual review.

385.348 1. The board of trustees of each school district shall, in consultation with the employees of the school district, prepare a plan to

improve the achievement of pupils enrolled in the school district, excluding pupils who are enrolled in charter schools located in the school district. If the school district is a Title I school district designated as demonstrating need for improvement pursuant to NRS 385.377, the plan must also be prepared in consultation with parents and guardians of pupils enrolled in the school district and other persons who the board of trustees determines are appropriate.

2. Except as otherwise provided in this subsection, the plan must include the items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto. If a school district has not been designated as demonstrating need for improvement pursuant to NRS 385.377, the board of trustees of the school district is not required to include those items set forth in 20 U.S.C. § 6316(c)(7) and the regulations adopted pursuant thereto that directly relate to the status of a school district as needing improvement.

3. In addition to the requirements of subsection 2, a plan to improve the achievement of pupils enrolled in a school district must include:

(a) A review and analysis of the data upon which the report required pursuant to subsection 2 of NRS 385.347 is based and a review and analysis of any data that is more recent than the data upon which the report is based.

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

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

(i) Strategies to improve the allocation of resources from the school district, by program and by school, in a manner that will improve the academic achievement of pupils. 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.

(j) Based upon the reallocation of resources set forth in paragraph (i), the resources available to the school district to carry out the plan, including, without limitation, a budget of the overall cost for carrying out the plan.

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

(l) An identification of the programs, practices and strategies that are used throughout the school district and by the schools within the school district that have proven successful in improving the achievement and proficiency of pupils, including, without limitation:

(1) An identification of each school that carries out such a program, practice or strategy;

(2) An indication of which programs, practices and strategies are carried out throughout the school district and which programs, practices and strategies are carried out by individual schools;

(3) The extent to which the programs, practices and strategies include methods to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361; and

(4) A description of how the school district disseminates information concerning the successful programs, practices and strategies to all schools within the school district.

4. The board of trustees of each school district shall:

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

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

5. On or before December 15 of each year, the board of trustees of each school district shall submit the plan or the revised plan, as applicable, to the:

- (a) Superintendent of Public Instruction;
- (b) Governor;
- (c) State Board;
- (d) Department;
- (e) Committee; and
- (f) Bureau.

~~§ NRS 388.171 Program of small learning communities required in certain schools.~~

~~388.171 1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The policy must require:~~

~~— (a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;~~

~~— (b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;~~

~~— (c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his or her initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;~~

~~— (d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and~~

~~— (e) The assignment of:~~

~~— (1) Guidance counselors;~~

~~— (2) At least one licensed school administrator or a designee of such an administrator; and~~

~~— (3) Appropriate adult mentors;~~

~~— specifically for the pupils enrolled in their initial year at the middle school or junior high school.~~

~~—2. The principal of each middle school or junior high school in which 500 pupils or more are enrolled shall:~~

~~—(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and~~

~~—(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to NRS 388.176.~~

~~—NRS 388.215 Program of small learning communities required for ninth grade pupils enrolled in larger schools.~~

~~—388.215 1. The board of trustees of each school district which includes at least one high school with an enrollment of 1,200 pupils or more, including pupils enrolled in ninth grade, shall adopt a policy for each of those high schools to provide a program of small learning communities. The policy must require:~~

~~—(a) Where practicable, the designation of a separate area geographically within the high school where the pupils enrolled in ninth grade attend classes;~~

~~—(b) The collection and maintenance of information relating to pupils enrolled in ninth grade, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of high school;~~

~~—(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in ninth grade, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;~~

~~—(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in ninth grade in the education of their children; and~~

~~—(e) The assignment of:~~

~~—(1) Guidance counselors;~~

~~—(2) At least one licensed school administrator; and~~

~~—(3) Appropriate adult mentors;~~

~~—specifically for the pupils enrolled in ninth grade.~~

~~—2. The principal of each high school in which 1,200 pupils or more are enrolled, including pupils enrolled in ninth grade, shall:~~

~~—(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and~~

~~—(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods that are used to focus on the pupils enrolled in ninth grade at the school.]~~

385.357 Plan to improve achievement of pupils for individual schools; duties of school support team in preparing plan; annual review; process for submission and approval of plan; timeline for carrying out plan.

1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is

required pursuant to subsection 2 of NRS 385.347 to the board of trustees of the school district in which the charter school is located for inclusion in the report of the school district pursuant to that section. The information must be submitted by the charter school in a format prescribed by the board of trustees.

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218E.625 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and pursuant to NRS 385.357, 385.3745 or 385.3746, whichever is applicable for the school, consult with the governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

385.357 Plan to improve achievement of pupils for individual schools; duties of school support team in preparing plan; annual review; process for submission and approval of plan; timeline for carrying out plan. [Effective through June 30, 2010.]

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

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

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

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

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

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

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

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the

school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

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

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

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

(I) The curriculum appropriate to improve achievement;

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

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

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

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

(4) Manage effectively the discipline of pupils; and

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

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

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

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

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

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

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

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

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

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

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

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

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

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.36127. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

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

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

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

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted

pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

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

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

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located.

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

~~[NRS 390.220 — Enforcement by board of trustees of use of prescribed textbooks; exception for charter schools.~~

~~— 390.220 — Boards of trustees of school districts in this State shall enforce in the public schools, excluding charter schools, the use of textbooks prescribed and adopted by the State Board.]~~

Senator Denis moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 365.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 98.

The following Assembly amendment was read:

Amendment No. 857.

"SUMMARY—Revises provisions relating to collective bargaining between local governments and employee organizations. (BDR 23-415)"

"AN ACT relating to local governments; revising provisions relating to mediation during the process of collective bargaining; revising provisions relating to certain reports on final agreements between local government employers and employee organizations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1.3 of this bill revises provisions relating to mediation between local governments and employee organizations during collective bargaining. **Sections 1, 1.7, 3 and 4** of this bill require that the reports made by the chief executive officer of a local government or the superintendent of a school district to the local government or to the board of trustees of the school district, respectively, concerning the fiscal impact of a collective bargaining agreement between the local government and an employee organization include information relating to the estimated total cost of the agreement and the difference in that cost and the total cost of the immediately preceding agreement.

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

Section 1. NRS 288.153 is hereby amended to read as follows:

288.153 Any new, extended or modified collective bargaining agreement or similar agreement between a local government employer and an employee organization must be approved by the governing body of the local government employer at a public hearing. The chief executive officer of the local government shall report to the local government the fiscal impact of the agreement. *The report must include, without limitation:*

1. The estimated total cost of the agreement, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the agreement in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and

2. The difference between the estimated total cost of the agreement and the total cost of the immediately preceding agreement between the parties.

Sec. 1.3. NRS 288.190 is hereby amended to read as follows:

288.190 Except ~~{in cases to which}~~ *as otherwise provided in* NRS 288.205 : ~~{and 288.215 apply;}~~

~~1. {Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1,}~~ *If the parties to a negotiation have failed to reach an agreement after at least four meetings of negotiation, either party involved {in negotiations} may request a mediator. If the parties do not agree upon a mediator, {the Commissioner shall submit to the parties a list of seven potential mediators.} either party may request from the American Arbitration Association or the Federal Mediation and*

Conciliation Service a list of seven potential mediators. If the parties are unable to agree upon which mediation service should be used, the Federal Mediation and Conciliation Service must be used. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.

2. If mediation is ~~agreed to or~~ requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators. ~~{from the Commissioner.}~~

3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of the mediator's selection as mediator. The mediator may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.

4. ~~{The}~~ ***If the parties do not use a mediator provided by the Federal Mediation and Conciliation Service, the*** local government employer and employee organization each shall pay one-half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.

5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the parties, give to the Commissioner of the Board a report of the efforts made to settle the dispute.

Sec. 1.7. NRS 288.200 is hereby amended to read as follows:

288.200 Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:

1. If:

(a) The parties have failed to reach an agreement after at least six ~~four~~ meetings of negotiations; and

(b) The parties have participated in mediation and by April 1, have not reached agreement,

↪ either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for the findings and recommendations of the fact finder. The findings and recommendations of the fact finder are not binding on the parties except as provided in subsections 5, 6 and 11. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.

2. If the parties are unable to agree on an impartial fact finder or a panel of neutral arbitrators within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from

this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.

3. The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact-finding.

4. A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report the findings and recommendations of the fact finder to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.

5. The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.

6. If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 11 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the Commissioner of the Board. Each panel shall, when making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact-finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.

7. Except as otherwise provided in subsection 10, any fact finder, whether the fact finder's recommendations are to be binding or not, shall base such recommendations or award on the following criteria:

(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, and subject to the provisions of paragraph (c), the fact finder shall consider, to the extent appropriate, compensation of other government employees, both in and out of the State and use normal criteria for interest disputes regarding the terms

and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and the fact finder shall consider whether the Board found that either party had bargained in bad faith.

(c) A consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multiyear contract, the fact finder must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ The fact finder's report must contain the facts upon which the fact finder based the fact finder's determination of financial ability to grant monetary benefits and the fact finder's recommendations or award.

8. Within 45 days after the receipt of the report from the fact finder, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

- (a) The issues of the parties submitted pursuant to subsection 3;
- (b) The report of findings and recommendations of the fact finder; and
- (c) The overall fiscal impact of the findings and recommendations, which must not include a discussion of the details of the report.

➤ The fact finder must not be asked to discuss the decision during the meeting.

9. The chief executive officer of the local government shall report to the local government the fiscal impact of the findings and recommendations. The report must include, without limitation ~~the~~ :

(a) *An* analysis of the impact of the findings and recommendations on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~the~~ ; and

(b) *If any of the findings or recommendations of the fact finder are to be binding:*

(1) *The estimated total cost of any contract resulting from the findings or recommendations which are to be binding, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of the employees during the period of the contract in lieu of equivalent base salary increases of cost-of-living increases, or both, in the employees' salaries; and*

(2) *The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.*

10. Any sum of money which is maintained in a fund whose balance is required by law to be:

(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or

(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,

↪ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.

11. The issues which may be included in a panel's order pursuant to subsection 6 are:

(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and

(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.

↪ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 288.215 is hereby amended to read as follows:

288.215 1. As used in this section:

(a) "Firefighters" means those persons who are salaried employees of a fire prevention or suppression unit organized by a political subdivision of the State and whose principal duties are controlling and extinguishing fires.

(b) "Police officers" means those persons who are salaried employees of a police department or other law enforcement agency organized by a political subdivision of the State and whose principal duties are to enforce the law.

2. The provisions of this section apply only to firefighters and police officers and their local government employers.

3. If the parties have not agreed to make the findings and recommendations of the fact finder final and binding upon all issues, and do not otherwise resolve their dispute, they shall, within 10 days after the fact finder's report is submitted, submit the issues remaining in dispute to an arbitrator who must be selected in the manner provided in NRS 288.200 and have the same powers provided for fact finders in NRS 288.210.

4. The arbitrator shall, within 10 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearings must be held in the county in which the local government employer is located and the arbitrator shall arrange for a full and complete record of the hearings.

5. At the hearing, or at any subsequent time to which the hearing may be adjourned, information may be presented by:

(a) The parties to the dispute; or

(b) Any interested person.

6. The parties to the dispute shall each pay one-half of the costs incurred by the arbitrator.

7. A determination of the financial ability of a local government employer must be based on:

(a) All existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide

facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

8. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearings for a period of 3 weeks. An agreement by the parties is final and binding, and upon notification to the arbitrator, the arbitration terminates.

9. If the parties do not enter into negotiations or do not agree within 30 days, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

10. The arbitrator shall, within 10 days after the final offers are submitted, accept one of the written statements, on the basis of the criteria provided in NRS 288.200, and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract.

11. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ **reasons** for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

12. Within 45 days after the receipt of the decision from the arbitrator pursuant to subsection 10, the governing body of the local government employer shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 3;

(b) The statement of the arbitrator pursuant to subsection 11; and

(c) The overall fiscal impact of the decision, which must not include a discussion of the details of the decision.

➤ The arbitrator must not be asked to discuss the decision during the meeting.

13. The chief executive officer of the local government shall report to the local government the fiscal impact of the decision. The report must include, without limitation ~~the~~ :

(a) **An** analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment~~;~~ ;

(b) **The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees'**

portion of contributions to the Public Employees' Retirement System that the local government employer will pay on behalf of firefighters or police officers, as applicable, during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the employees' salaries; and

(c) The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.

Sec. 4. NRS 288.217 is hereby amended to read as follows:

288.217 1. The provisions of this section govern negotiations between school districts and employee organizations representing teachers and educational support personnel.

2. If the parties to a negotiation pursuant to this section have failed to reach an agreement after at least four sessions of negotiation, either party may declare the negotiations to be at an impasse and, after 5 days' written notice is given to the other party, submit the issues remaining in dispute to an arbitrator. The arbitrator must be selected in the manner provided in subsection 2 of NRS 288.200 and has the powers provided for fact finders in NRS 288.210.

3. The arbitrator shall, within 30 days after the arbitrator is selected, and after 7 days' written notice is given to the parties, hold a hearing to receive information concerning the dispute. The hearing must be held in the county in which the school district is located and the arbitrator shall arrange for a full and complete record of the hearing.

4. The parties to the dispute shall each pay one-half of the costs of the arbitration.

5. A determination of the financial ability of a school district must be based on:

(a) All existing available revenues as established by the school district and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the school district to provide an education to the children residing within the district.

(b) Consideration of funding for the current year being negotiated. If the parties mutually agree to arbitrate a multi-year contract the arbitrator must consider the ability to pay over the life of the contract being negotiated or arbitrated.

➤ Once the arbitrator has determined in accordance with this subsection that there is a current financial ability to grant monetary benefits, the arbitrator shall consider, to the extent appropriate, compensation of other governmental employees, both in and out of this State.

6. At the recommendation of the arbitrator, the parties may, before the submission of a final offer, enter into negotiations. If the negotiations are begun, the arbitrator may adjourn the hearing for a period of 3 weeks. If an agreement is reached, it must be submitted to the arbitrator, who shall certify it as final and binding.

7. If the parties do not enter into negotiations or do not agree within 30 days after the hearing held pursuant to subsection 3, each of the parties shall submit a single written statement containing its final offer for each of the unresolved issues.

8. The arbitrator shall, within 10 days after the final offers are submitted, render a decision on the basis of the criteria set forth in NRS 288.200. The arbitrator shall accept one of the written statements and shall report the decision to the parties. The decision of the arbitrator is final and binding on the parties. Any award of the arbitrator is retroactive to the expiration date of the last contract between the parties.

9. The decision of the arbitrator must include a statement:

(a) Giving the arbitrator's ~~reason~~ **reasons** for accepting the final offer that is the basis of the arbitrator's award; and

(b) Specifying the arbitrator's estimate of the total cost of the award.

10. Within 45 days after the receipt of the decision from the arbitrator, the board of trustees of the school district shall hold a public meeting in accordance with the provisions of chapter 241 of NRS. The meeting must include a discussion of:

(a) The issues submitted pursuant to subsection 2;

(b) The statement of the arbitrator pursuant to subsection 9; and

(c) The overall fiscal impact of the decision which must not include a discussion of the details of the decision.

➤ The arbitrator must not be asked to discuss the decision during the meeting.

11. The superintendent of the school district shall report to the board of trustees the fiscal impact of the decision. The report must include, without limitation ~~the~~ :

(a) **An** analysis of the impact of the decision on compensation and reimbursement, funding, benefits, hours, working conditions or other terms and conditions of employment ~~the~~ ;

(b) ***The estimated total cost of any contract resulting from the decision, including, without limitation, the estimated total cost of the employees' portion of contributions to the Public Employees' Retirement System that the school district will pay on behalf of teachers and educational support personnel during the period of the contract in lieu of equivalent base salary increases or cost-of-living increases, or both, in the salaries of the teachers and educational support personnel; and***

(c) ***The difference between the estimated total cost of the contract and the total cost of the immediately preceding contract between the parties.***

12. As used in this section:

(a) "Educational support personnel" means all classified employees of a school district, other than teachers, who are represented by an employee organization.

(b) "Teacher" means an employee of a school district who is licensed to teach in this State and who is represented by an employee organization.

Sec. 5. This act becomes effective on July 1, 2011.

Senator Parks moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 98.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 59, 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 Lee, Hardy and Settlemeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 59.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 240, 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 Lee, Settlemeyer and Hardy as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 240.

RECEDE FROM SENATE AMENDMENTS

Senator Lee moved that the Senate do not recede from its action on Assembly Bill No. 257, 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.

Remarks by Senator Lee.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Lee, Hardy and Settlemeyer as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 257.

RECEDE FROM SENATE AMENDMENTS

Senator Wiener moved that the Senate do not recede from its action on Assembly Bill No. 136, 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.

Remarks by Senator Wiener.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Wiener, Breeden and McGinness as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 136.

RECEDE FROM SENATE AMENDMENTS

Senator Breeden moved that the Senate do not recede from its action on Assembly Bill No. 277, 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.

Remarks by Senator Breeden.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Breeden, Manendo and Halseth as a Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 277.

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

Senate in recess at 6:03 p.m.

SENATE IN SESSION

At 6:21 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were re-referred Senate Bills Nos. 115, 447, 471, 476, 480, 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*

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 380.

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

Motion carried.

Assembly Bill No. 383.

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

Motion carried.

Assembly Bill No. 503.

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

Motion carried.

Assembly Bill No. 575.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 115.

Bill read second time.

Senator Copening moved that Senate Bill No. 115 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senate Bill No. 447.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 873.

"SUMMARY—Makes various changes concerning the administration of child welfare services. (BDR 38-1218)"

"AN ACT relating to protection of children; revising provisions governing the corrective actions that are required when an agency which provides child welfare services is not in compliance with certain laws, plans or policies; providing for the Division of Child and Family Services of the Department of Health and Human Services to award block grants, **categorical grants** and to administer a program to award incentive payments to an agency which provides child welfare services in larger counties; requiring the Division to submit an annual report to the Governor and the Legislature concerning the ~~block grants and the~~ program to award incentive payments; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law the Division of Child and Family Services of the Department of Health and Human Services provides child welfare services directly or arranges for the provision of such services in smaller counties. The Division further administers all federal money granted to the State for child welfare services and coordinates and monitors the delivery of child welfare services in this State. The Division further evaluates all child welfare services provided throughout the State and is required to ensure that agencies

which provide child welfare services carry out corrective actions when the agencies are not in compliance with the law or with statewide plans or policies. (NRS 432B.180) **Section 2** of this bill requires an agency which provides child welfare services to carry out such corrective actions or develop and submit a corrective action plan to the Division within 60 days. **Section 2** further requires the agency which provides child welfare services to carry out the corrective action plan within 90 days after it is approved. If it is not carried out within that time, the agency which provides child welfare services is subject to certain actions by the Division, which may include having money withheld.

Section 3 of this bill ~~[provides for]~~ **requires each agency which provides child welfare services to submit an improvement plan to** the Division of Child and Family Services, ~~[to award block grants for each calendar year to an agency which provides child welfare services in larger counties. Beginning January 1, 2013, section 3 requires a request for a block grant to be accompanied by an]~~ **The improvement plan submitted by the agency which provides child welfare services [f. Such an improvement plan]** must cover a period of 2 years and include specific performance targets for improving the services provided to children in the care of the agency. **Each year, the agency which provides child welfare services is required to submit data to the Division demonstrating the progress made toward meeting the specific performance targets.**

Section 4 of this bill requires the Division of Child and Family Services to administer a program to award incentive payments to an agency which provides child welfare services in larger counties and sets forth the requirements for any agency to apply for and the Division to award such incentive payments. **Sections 5 and 6** of this bill provide the manner in which an agency which provides child welfare services may apply for incentive payments for the fiscal years following an award of an incentive payment and provides that the amount of such subsequent incentive payments will be determined based upon whether the agency achieved the goal for which the incentive payment was made and, if not, the percentage of the goal that was achieved. **Section 8.5 of this bill provides for a different amount for the incentive payments awarded in Fiscal Years 2012-2013 and 2013-2014.**

Section 7 of this bill requires the Division of Child and Family Services to prepare and submit a report concerning the ~~[block grants,]~~ improvements plans and the program for incentive payments to the Governor and the Legislature on or before January 31 of each year.

Section 7.5 of this bill requires the Division of Child and Family Services to award a block grant for each fiscal year to each agency which provides child welfare services in larger counties to the extent that money has been appropriated in an amount which is based on the amount appropriated for the previous biennium. An agency which provides child welfare services that receives a block grant is authorized

to use the money without restriction, and any money remaining at the end of the fiscal year does not revert to the State General Fund. The amount of the block grant will be reduced if the county appropriates an amount less than the amount granted to the agency which provides child welfare services for the fiscal year beginning on July 1, 2010.

Section 7.7 of this bill requires the Division of Child and Family Services to provide a categorical grant to each agency which provides child welfare services for each fiscal year for its adoption assistance program to the extent that money is available for that purpose.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. 1. *When the Division of Child and Family Services determines pursuant to subsection 7 of NRS 432B.180 that corrective action by an agency which provides child welfare services is necessary, the Division shall notify the agency which provides child welfare services of the specific areas in which the agency is in noncompliance with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies and inform the agency which provides child welfare services that it must, within 60 days, carry out the corrective action or develop a corrective action plan.*

2. The Division of Child and Family Services shall determine whether to approve a corrective action plan submitted pursuant to subsection 1 within 30 days after receipt. If the Division of Child and Family Services does not approve the plan, the Division of Child and Family Services must notify the agency which provides child welfare services of the deficiencies and allow the agency which provides child welfare services 30 days in which to submit a revised corrective action plan for reconsideration. If a revised corrective action plan is not resubmitted within 30 days, the Division may take any of the actions set forth in subsection 4.

3. After the Division of Child and Family Services approves a corrective action plan, the agency which provides child welfare services must carry out the plan within 90 days.

4. If the agency which provides child welfare services fails to take corrective action or to carry out a corrective action plan within the required period, the Division of Child and Family Services may take one or more of the following actions:

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributed to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

5. The Division of Child and Family Services shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.

6. The Division of Child and Family Services shall deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State, including, without limitation:

(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and

(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.

~~Sec. 3. 1. {On or before January 1 of each year, an agency which provides child welfare services in a county whose population is 100,000 or more may request a block grant from the Division of Child and Family Services.~~

~~— 2. An} Each agency which provides child welfare services {that submits a request for a block grant} shall submit an improvement plan to the Division of Child and Family Services on or {after} before January 1 {, 2013, must include an improvement plan with the request.~~
~~— 3.} of each odd-numbered year.~~

2. Before submitting an improvement plan pursuant to subsection {2} 1, the agency must solicit public input regarding the proposed improvement plan. The agency which provides child welfare services shall submit with the improvement plan an explanation of the manner in which the agency solicited such public input and a summary of any input received.

{4} 3. The improvement plan must cover a period of 2 years and include, without limitation:

(a) *Specific performance targets for improving the safety, permanency and well-being of the children in the care of the agency which provides child welfare services; and*

(b) *The approach that the agency which provides child welfare services will take to achieve the specific performance targets, including, without limitation, specific strategies that will be used.*

~~{5. The Division of Child and Family Services shall award a block grant to an agency which provides child welfare services that complies with the provisions of this section to the extent that money has been appropriated for that purpose.~~

~~6. 4. On or before December 31 of each year, [an] the agency which provides child welfare services [that receives a block grant pursuant to this section after submitting an improvement plan] must submit to the Division of Child and Family Services data demonstrating the progress that the agency which provides child welfare services has made towards meeting the specific performance targets set forth in the improvement plan.~~
submitted pursuant to subsection 1.

Sec. 4. 1. *The Division of Child and Family Services shall administer a program to award incentive payments to an agency which provides child welfare services in a county whose population is 100,000 or more.*

2. *On or before May 1 of each year, an agency which provides child welfare services may submit an application to the Division of Child and Family Services for an incentive payment.*

3. *The application for an incentive payment must include, without limitation:*

(a) *A description of the specific goal that the agency which provides child welfare services agrees to achieve by June 30 of the following year if the incentive payment is awarded;*

(b) *Baseline data to support the need to achieve the specific goal and which will provide a manner in which to measure whether the goal is achieved or to determine the percentage of the goal that is achieved; and*

(c) *The amount requested by the agency which provides child welfare services as an incentive payment.*

4. *If the Division of Child and Family Services does not approve the application, the Division must notify the agency which provides child welfare services of the specific deficiencies in the application and allow the agency to resubmit the application within 30 days.*

5. *If the Division of Child and Family Services approves the application, the Division of Child and Family Services shall, to the extent that money is available for that purpose, award an incentive payment to the agency which provides child welfare services for the fiscal year beginning on July 1 of the year in which the application is submitted.*

Sec. 5. 1. *Each year following the award of an incentive payment pursuant to section 4 of this act, the agency which provides child welfare services may submit an application on or before May 1 for an incentive*

payment to be awarded for the next fiscal year beginning on July 1 following approval of the application.

2. The agency which provides child welfare services shall submit the application in the manner set forth in section 4 of this act and must, in addition to the information required pursuant to section 4 of this act, include an estimate of the percentage of the goals established in the prior application that will be achieved by the agency which provides child welfare services by June 30. ~~[If the agency which provides child welfare services does not estimate that it will achieve at least 75 percent of the goal that was established, the application must be denied and the agency which provides child welfare services will not be eligible for an incentive payment.]~~

3. If the Division of Child and Family Services approves the application, the Division shall, to the extent that money has been made available for that purpose, award an incentive payment to the agency which provides child welfare services for the fiscal year beginning on July 1 of the year in which the application is submitted in an amount not to exceed a percentage of the amount awarded for the current fiscal year as determined pursuant to subsection 4.

4. The amount of an incentive payment that may be awarded for the next fiscal year pursuant to this section must ~~[not exceed 40 percent of]~~ be determined by multiplying the amount awarded for the current fiscal year ~~[if the agency which provides child welfare services estimates that it will achieve not less than 75 percent and not more than 76 percent of the goal established for the current fiscal year by June 30. The amount of an incentive payment that may be awarded increases by 3 percent for each additional]~~ by the percentage point of completion of the goal established for the current fiscal year, up to a maximum of 100 percent of the amount of the incentive payment awarded for the current fiscal year.

Sec. 6. 1. On or before September 1 of the year following the year in which an agency which provides child welfare services is awarded an incentive payment from the program established pursuant to section 4 of this act, the agency which provides child welfare services shall submit to the Division of Child and Family Services a report which demonstrates whether the goal established pursuant to section 4 of this act was achieved and, if not, the percentage of the goal that was achieved by June 30 of the fiscal year in which the incentive payment was awarded.

2. If the report submitted pursuant to subsection 1 demonstrates that the agency which provides child welfare services achieved:

(a) A greater percentage of the goal than estimated pursuant to section 5 of this act, the Division of Child and Family Services shall increase the incentive payment to the agency which provides child welfare services by an amount equal to the additional amount that should have been awarded pursuant to subsection 4 of section 5 of this act; or

(b) A lower percentage of the goal than estimated pursuant to section 5 of this act, the agency which provides child welfare services shall

reimburse to the Division an amount equal to the additional amount that should not have been awarded pursuant to subsection 4 of section 5 of this act.

Sec. 7. On or before January 31 of each year, the Division of Child and Family Services shall prepare and submit a report to the Governor and the Legislature which includes, without limitation, information concerning:

1. The progress made by each agency which provides child welfare services in a county whose population is 100,000 or more toward achieving the specific performance targets set forth in an improvement plan submitted by the agency pursuant to section 3 of this act; and

2. Whether the agency which provides child welfare services in a county whose population is 100,000 or more achieved the specific goal established pursuant to section 4 of this act during the previous fiscal year and, if not, the percentage of the goal that was achieved.

Sec. 7.5. 1. The Division of Child and Family Services shall award a block grant to each agency which provides child welfare services in a county whose population is 100,000 or more for each fiscal year to the extent that money has been appropriated to the Division for that purpose. The amount of the appropriation to the Division of Child and Family Services must be based on the amount appropriated for the previous biennium. The amount of the block grant must be determined for 2 years beginning on July 1 of each odd-numbered year and allocated each fiscal year.

2. An agency which provides child welfare services that receives a block grant pursuant to subsection 1 may use the money allocated for any costs of providing child welfare services without restriction, the agency which provides child welfare services is not required to return any money remaining from that allocation at the end of the fiscal year, and the money does not revert to the State General Fund.

3. If the board of county commissioners of a county whose population is 100,000 or more appropriates to the agency which provides child welfare services for the county an amount less than the amount appropriated to the agency for the fiscal year beginning on July 1, 2010, the Division of Child and Family Services must reduce the amount of the block grant awarded pursuant to subsection 1 by an equal amount.

Sec. 7.7. 1. The Division of Child and Family Services shall provide a categorical grant to each agency which provides child welfare services for each fiscal year for its adoption assistance program to the extent that money has been appropriated to the Division for that purpose. The amount of the grant must be based upon the estimated cost of the projected growth in the adoption assistance program.

2. The amount of the grant awarded pursuant to subsection 1 must be determined for 2 years beginning on July 1 of each odd-numbered year and allocated each fiscal year.

3. An agency which provides child welfare services that receives a grant pursuant to subsection 1 must use the money allocated only for costs associated with the adoption assistance program. Any money from the grant awarded pursuant to subsection 1 that has not been used or committed for expenditure by the agency which provides child welfare services by the end of the fiscal year reverts to the State General Fund.

Sec. 8. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. ~~{Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.}~~ ***Request appropriations from the Legislature in amounts sufficient to:***

(a) Provide block grants to an agency which provides child welfare services in a county whose population is 100,000 or more pursuant to section ~~{3}~~ 7.5 of this act; and

(b) Administer a program to provide additional incentive payments to such an agency pursuant to section 4 of this act.

3. Monitor the performance of an agency which provides child welfare services in a county whose population is 100,000 or more through data collection, evaluation of services and the review and approval of agency improvement plans pursuant to section 4 of this act.

4. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

~~{4.}~~ ***5. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.***

~~{5.}~~ ***6. Involve communities in the improvement of child welfare services.***

~~{6.}~~ ***7. Evaluate all child welfare services provided throughout the State and, if an agency which provides child welfare services is not ~~{complying}~~ in substantial compliance with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services, require corrective action of the agency which provides child welfare services.***

~~{7.}~~ ***If an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable period, take one or more of the following actions against the agency which provides child welfare services:***

—(a) Withhold money from the agency which provides child welfare services;

—(b) Impose an administrative fine against the agency which provides child welfare services;

~~—(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and~~

~~—(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.~~

~~↪ The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.~~

~~—8. In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.~~

~~—9.] {8. Deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State, including, without limitation:~~

~~—(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and~~

~~—(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.]~~

~~{10.] {9.} 8. Coordinate with and assist:~~

~~(a) Each agency which provides child welfare services in recruiting, training and licensing providers of family foster care as defined in NRS 424.017;~~

~~(b) Each foster care agency licensed pursuant to NRS 424.093 to 424.097, inclusive, in screening, recruiting, licensing and training providers of family foster care as defined in NRS 424.017; and~~

~~(c) A nonprofit or community-based organization in recruiting and training providers of family foster care as defined in NRS 424.017 if the Division determines that the organization provides a level of training that is equivalent to the level of training provided by an agency which provides child welfare services.~~

Sec. 8.5. Notwithstanding the provisions of section 5 of this act, the amount of the incentive payment awarded for:

1. Fiscal Year 2012-2013 must equal the amount awarded for Fiscal Year 2011-2012 regardless of the percentage point of completion of the goal established for Fiscal Year 2012-2013.

2. Fiscal Year 2013-2014 must equal 150 percent of the percentage point of completion of the goal established for Fiscal Year 2012-2013, up to a maximum of 100 percent of the amount of the incentive payment awarded for Fiscal Year 2012-2013.

Sec. 9. 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.

Senate Bill No. 447, as amended, requires the Division of Child and Family Services, to the extent that money has been appropriated, to award block grants to counties whose population is 100,000 or more, currently Clark County and Washoe County, for the provision of child welfare services in those counties. The bill allows the counties that receive the block grants to use the money without restriction for child welfare services and without requirement to revert unspent money to the General Fund. The bill also requires the Division to provide a categorical grant to the same counties for the cost of adoption assistance services within the counties.

The bill provides for a performance improvement plan to be implemented by the Division, requiring each agency that provides child welfare services, Clark County and Washoe County and the Division itself, to submit improvement plans biennially to improve the safety, permanency, and well-being of children in the agencies' care. The bill also requires the Division to administer an incentive program for the counties that provide child welfare services; to make fiscal incentive payments based upon the counties' achievement of specific goals for improvement proposed by the counties and approved by the Division. The Division is required to submit a report to the Governor and the Legislature each year on the county child welfare agencies' progress in achieving performance improvement targets.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 471.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 822.

"SUMMARY—Revises provisions relating to public health. (BDR 40-1200)"

"AN ACT relating to public health; requiring counties to ~~reimburse~~ pay an assessment to the Health Division of the Department of Health and Human Services for the cost of providing various services; authorizing a county to submit a proposal for the county to provide such services and receive an exemption from the assessment; revising the membership of a district board of health in certain counties; transferring the powers and duties of the Health Division regarding communicable diseases to a health authority in a county; authorizing the Health Division to impose administrative penalties for violations of certain provisions governing

emergency medical services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill requires each county to ~~reimburse~~ pay an assessment to the Health Division of the Department of Health and Human Services for the costs of services provided in that county by the Health Division or the State Health Officer. A county is authorized to request an exemption from the assessment by submitting a proposal to the Governor for the county to carry out those services. If the Governor approves the proposal, the Interim Finance Committee must consider whether to approve the exemption. An exemption may not be effective until at least 6 months after the Interim Finance Committee gives its approval.

Existing law provides for a health district in a county whose population is 700,000 or more (currently Clark County). The health district consists of a district health officer and a district board of health which consists of representatives selected by various governmental entities and selected by those representatives. (NRS 439.362) Section 1.5 of this bill adds one representative of the association of gaming establishments who meets certain requirements and is selected from a list of nominees submitted by the association. If no such association exists, the representative selected must represent the gaming industry.

Sections 4-20 of this bill transfer the powers and duties concerning control, prevention, treatment and cure of communicable diseases, including, without limitation, sexually transmitted diseases and tuberculosis, from the Health Division to the health authority. Under existing law, the term "health authority" is defined for the purposes of certain provisions governing infectious diseases to mean the district health officer or his or her designee in those counties that have a district health officer or the State Health Officer or his or her designee in those counties that do not have a district health officer. (NRS 441A.050) If the State Health Officer or his or her designee performs any such duties for a county, the county must ~~reimburse~~ pay the Health Division an assessment for the cost of such services as required by **section 1** of this bill.

Sections 23 and 24 of this bill: (1) authorize the Health Division to impose an administrative penalty against any person who violates certain provisions governing emergency medical services; and (2) restrict the use of certain money received by the Health Division, including money from such administrative fines, for a training program for emergency medical services personnel.

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

Section 1. Chapter 439 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Each~~ Unless an exemption is approved pursuant to subsection 3, each county shall ~~reimburse~~ pay an assessment to the Health Division, in an amount determined by the Health Division, for the costs of services provided in that county by the Health Division or by the State Health Officer, including, without limitation, services provided pursuant to this chapter and chapters ~~[432A, 439,]~~ 441A, 444, 446 ~~[-, 450B]~~ and 583 of NRS and the regulations adopted pursuant to those chapters, regardless of whether the county has a local health authority.

2. ~~[The Health Division shall bill each county required to reimburse the Health Division pursuant to subsection 1.]~~ Each county shall pay the assessment to the Health Division in quarterly installments that are due on the first day of the first month of each calendar quarter.

3. A county may submit a proposal to the Governor for the county to carry out the services that would otherwise be provided by the Health Division or the State Health Officer pursuant to this chapter and chapters 441A, 444, 446 and 583 of NRS and the regulations adopted pursuant to those chapters. If the Governor approves the proposal, the Governor shall submit a recommendation to the Interim Finance Committee to exempt the county from the assessment required pursuant to subsection 1. The Interim Finance Committee, upon receiving the recommendation from the Governor, shall consider the proposal and determine whether to approve the exemption. In considering whether to approve the exemption, the Interim Finance Committee shall consider, among other things, the best interests of the State, the effect of the exemption and the intent of the Legislature in requiring the assessment to be paid by each county.

4. An exemption that is approved by the Interim Finance Committee pursuant to subsection 3 must not become effective until at least 6 months after that approval.

5. A county that receives approval pursuant to subsection 3 to carry out the services that would otherwise be provided by the Health Division or the State Health Officer pursuant to this chapter and chapters 441A, 444, 446 and 583 of NRS and the regulations adopted pursuant to those chapters shall carry out those services in the manner set forth in those chapters and regulations.

6. The Health Division may adopt such regulations as necessary to carry out the provisions of this section.

Sec. 1.5. NRS 439.362 is hereby amended to read as follows:

439.362 1. A health district with a health department consisting of a district health officer and a district board of health is hereby created.

2. The district board of health consists of:

(a) Representatives selected by the following entities from among their elected members:

(1) Two representatives of the board of county commissioners;

(2) Two representatives of the governing body of the largest incorporated city in the county; and

(3) One representative of the governing body of each other city in the county; and

(b) The following representatives, selected by the elected representatives of the district board of health selected pursuant to paragraph (a), who shall represent the health district at large and who must be selected based on their qualifications without regard to the location within the health district of their residence or their place of employment:

(1) Two representatives who are physicians licensed to practice medicine in this State, one of whom is selected on the basis of his or her education, training, experience or demonstrated abilities in the provision of health care services to members of minority groups and other medically underserved populations;

(2) One representative who is a nurse licensed to practice nursing in this State;

(3) One representative who has a background or expertise in environmental health or environmental health services; ~~and~~

(4) One representative of a nongaming business or from an industry that is subject to regulation by the health district ~~;~~ and

(5) One representative of the association of gaming establishments whose membership in the county collectively paid the most gross revenue fees to the State pursuant to NRS 463.370 in the preceding year, who must be selected from a list of nominees submitted by the association. If no such association exists, the representative selected pursuant to this subparagraph must represent the gaming industry.

3. Members of the district board of health serve terms of 2 years. Vacancies must be filled in the same manner as the original selection for the remainder of the unexpired term. Members serve without additional compensation for their services, but are entitled to reimbursement for necessary expenses for attending meetings or otherwise engaging in the business of the board.

4. The district board of health shall meet in July of each year to organize and elect one of its members as chair of the board.

5. The county treasurer is the treasurer of the district board of health. The treasurer shall:

(a) Keep permanent accounts of all money received by, disbursed for and on behalf of the district board of health; and

(b) Administer the health district fund created by the board of county commissioners pursuant to NRS 439.363.

6. The district board of health shall maintain records of all of its proceedings and minutes of all meetings, which must be open to inspection.

7. No county, city or town board of health may be created in the county. Any county, city or town board of health in existence when the district board of health is created must be abolished.

Sec. 2. NRS 441A.120 is hereby amended to read as follows:

441A.120 1. The Board shall adopt regulations governing the control of communicable diseases in this State, including regulations specifically relating to the control of such diseases in educational, medical and correctional institutions. The regulations must specify:

~~{1-}~~ (a) The diseases which are known to be communicable.

~~{2-}~~ (b) The communicable diseases which are known to be sexually transmitted.

~~{3-}~~ (c) The procedures for investigating and reporting cases or suspected cases of communicable diseases, including the time within which these actions must be taken.

~~{4-}~~ (d) For each communicable disease, the procedures for testing, treating, isolating and quarantining a person or group of persons who have been exposed to or have or are suspected of having the disease.

~~{5-}~~ (e) A method for ensuring that any testing, treatment, isolation or quarantine of a person or a group of persons pursuant to this chapter is carried out in the least restrictive manner or environment that is appropriate and acceptable under current medical and public health practices.

2. The duties set forth in the regulations adopted by the Board pursuant to this section must be performed by:

(a) In a district in which there is a district health officer, the district health officer or the district health officer's designee; or

(b) In any other area of the State, the State Health Officer or the State Health Officer's designee.

Sec. 3. NRS 441A.160 is hereby amended to read as follows:

441A.160 1. A health authority who knows, suspects or is informed of the existence within the jurisdiction of the health authority of any communicable disease shall immediately investigate the matter and all circumstances connected with it, and shall take such measures for the prevention, suppression and control of the disease as are required by the regulations of the Board or a local board of health.

2. A health authority may:

(a) Enter private property at reasonable hours to investigate any case or suspected case of a communicable disease.

(b) Order any person whom the health authority reasonably suspects has a communicable disease in an infectious state to submit to any medical examination or test which the health authority believes is necessary to verify the presence of the disease. The order must be in writing and specify the name of the person to be examined and the time and place of the examination and testing, and may include such terms and conditions as the health authority believes are necessary to protect the public health.

(c) Except as otherwise provided in subsection 5 and NRS 441A.210, issue an order requiring the isolation, quarantine or treatment of any person or group of persons if the health authority believes that such action is necessary to protect the public health. The order must be in writing and

specify the person or group of persons to be isolated or quarantined, the time during which the order is effective, the place of isolation or quarantine and other terms and conditions which the health authority believes are necessary to protect the public health, except that no isolation or quarantine may take place if the health authority determines that such action may endanger the life of a person who is isolated or quarantined.

3. Each order issued pursuant to this section must be served upon each person named in the order by delivering a copy to him or her.

4. If a health authority issues an order to isolate or quarantine a person with a communicable or infectious disease in a medical facility, the health authority must isolate or quarantine the person in the manner set forth in NRS ~~{441A.500}~~ **441A.510** to 441A.720, inclusive.

5. Except as otherwise provided in NRS 441A.310 and 441A.380, a health authority may not issue an order requiring the involuntary treatment of a person without a court order requiring the person to submit to treatment.

Sec. 4. NRS 441A.240 is hereby amended to read as follows:

441A.240 1. The ~~{Health Division}~~ **health authority** shall control, prevent, treat and, whenever possible, ensure the cure of sexually transmitted diseases.

2. The ~~{Health Division}~~ **health authority** shall provide the materials and curriculum necessary to conduct the educational program provided for in NRS 209.385 and establish a program for the certification of persons qualified to provide instruction for the program.

Sec. 5. NRS 441A.250 is hereby amended to read as follows:

441A.250 The ~~{Health Division}~~ **health authority** may establish and provide financial or other support to such clinics and dispensaries as it believes are reasonably necessary for the prevention, control, treatment or cure of sexually transmitted diseases.

Sec. 6. NRS 441A.260 is hereby amended to read as follows:

441A.260 If a person in this state who has a sexually transmitted disease is, in the discretion of the ~~{Health Division}~~ **health authority**, unable to afford approved treatment for the disease, the ~~{Health Division}~~ **health authority** may provide medical supplies or direct financial aid to any physician, clinic or dispensary in this state, within the limits of the available appropriations and any other resources, to be used in the person's treatment. A physician, clinic or dispensary that accepts supplies or aid pursuant to this section shall comply with all conditions prescribed by the Board relating to the use of the supplies or aid.

Sec. 7. NRS 441A.330 is hereby amended to read as follows:

441A.330 The ~~{Health Division}~~ **health authority** may establish such dispensaries, pharmacies or clinics for outpatient care as it believes are necessary for the care and treatment of persons who have acquired immune deficiency syndrome or a human immunodeficiency virus related disease, and provide those institutions with financial or other assistance. Dispensaries, pharmacies or clinics which accept financial or other assistance pursuant to

this section shall comply with all conditions prescribed by the Board relating to the use of that assistance.

Sec. 8. NRS 441A.340 is hereby amended to read as follows:

441A.340 The ~~{Health Division}~~ **health authority** shall control, prevent the spread of, and ensure the treatment and cure of tuberculosis.

Sec. 9. NRS 441A.350 is hereby amended to read as follows:

441A.350 The ~~{Health Division}~~ **health authority** may establish such clinics as it believes are necessary for the prevention and control of, and for the treatment and cure of, persons who have tuberculosis and provide those clinics with financial or other assistance within the limits of the available appropriations and any other resources.

Sec. 10. NRS 441A.360 is hereby amended to read as follows:

441A.360 If a person in this state who has tuberculosis is, in the discretion of the ~~{Health Division}~~ **health authority**, unable to afford approved treatment for the disease, the ~~{Health Division}~~ **health authority** may provide medical supplies or direct financial aid, within the limits of the available appropriations ~~{}~~ **and any other resources**, to be used in the person's treatment, to any physician, clinic, dispensary or medical facility. A physician, clinic, dispensary or medical facility that accepts supplies or aid pursuant to this section shall comply with all conditions prescribed by the board relating to the use of the supplies or aid.

Sec. 11. NRS 441A.370 is hereby amended to read as follows:

441A.370 1. The ~~{Health Division}~~ **health authority** shall, by contract with hospitals, clinics or other institutions in the State, provide for ~~{the}~~ :

(a) *The diagnostic examination , including, without limitation, laboratory testing of ~~{, and inpatient}~~ persons who have tuberculosis;* and

(b) *Inpatient and outpatient care for ~~{}~~ persons who have tuberculosis.*

2. If adequate facilities for examination and care are not available in the State, the ~~{Health Division}~~ **health authority** may contract with hospitals, clinics or other institutions in other states which do have adequate facilities.

Sec. 12. NRS 441A.380 is hereby amended to read as follows:

441A.380 Except as otherwise provided in NRS 441A.210, a person who has tuberculosis and is confined to a hospital or other institution pursuant to the provisions of this chapter must be treated for tuberculosis and any related condition, and may be treated for any other condition which the ~~{Health Division}~~ **health authority** determines is detrimental to his or her health and the treatment of which is necessary for the effective control of tuberculosis.

Sec. 13. NRS 441A.390 is hereby amended to read as follows:

441A.390 The ~~{Health Division}~~ **health authority** may contract with any private physician to provide outpatient care in those rural areas of the State where, in its determination, patients can best be treated in that manner.

Sec. 14. NRS 441A.400 is hereby amended to read as follows:

441A.400 The ~~{Health Division}~~ **health authority** may inspect and must be given access to all records of every institution and clinic, both public and private, where patients who have tuberculosis are treated at public expense.

Sec. 15. NRS 441A.510 is hereby amended to read as follows:

441A.510 1. If a health authority isolates, quarantines or treats a person or group of persons infected with, exposed to, or reasonably believed by a health authority to have been infected with or exposed to a communicable disease, the authority must isolate, quarantine or treat the person or group of persons in the manner set forth in NRS ~~{441A.500}~~ **441A.510** to 441A.720, inclusive.

2. A health authority shall provide each person whom it isolates or quarantines pursuant to NRS ~~{441A.500}~~ **441A.510** to 441A.720, inclusive, with a document informing the person of his or her rights. The Board shall adopt regulations:

(a) Setting forth the rights of a person who is isolated or quarantined that must be included in the document provided pursuant to this subsection; and

(b) Specifying the time and manner in which the document must be provided pursuant to this subsection.

Sec. 16. NRS 441A.520 is hereby amended to read as follows:

441A.520 1. A person who is isolated or quarantined pursuant to NRS ~~{441A.500}~~ **441A.510** to 441A.720, inclusive, has the right:

(a) To make a reasonable number of completed telephone calls from the place where the person is isolated or quarantined as soon as reasonably possible after his or her isolation or quarantine; and

(b) To possess and use a cellular phone or any other similar means of communication to make and receive calls in the place where the person is isolated or quarantined.

2. If a person who is isolated or quarantined pursuant to NRS ~~{441A.500}~~ **441A.510** to 441A.720, inclusive, is unconscious or otherwise unable to communicate because of mental or physical incapacity, the health authority that isolated or quarantined the person must notify the spouse or legal guardian of the person by telephone and certified mail. If a person described in this subsection is isolated or quarantined in a medical facility and the health authority did not provide the notice required by this subsection, the medical facility must provide the notice. If the case of a person described in this subsection is before a court and the health authority, and medical facility, if any, did not provide the notice required by this subsection, the court must provide the notice.

Sec. 17. NRS 441A.530 is hereby amended to read as follows:

441A.530 A person who is isolated or quarantined pursuant to NRS ~~{441A.500}~~ **441A.510** to 441A.720, inclusive, has the right to refuse treatment and may not be required to submit to involuntary treatment unless a court issues an order requiring the person to submit to treatment.

Sec. 18. NRS 441A.550 is hereby amended to read as follows:

441A.550 1. Any person or group of persons alleged to have been infected with or exposed to a communicable disease may be detained in a public or private medical facility, a residence or other safe location under emergency isolation or quarantine for testing, examination, observation and

the provision of or arrangement for the provision of consensual medical treatment in the manner set forth in NRS ~~441A.500~~ **441A.510** to 441A.720, inclusive, and subject to the provisions of subsection 2:

- (a) Upon application to a health authority pursuant to NRS 441A.560;
- (b) Upon order of a health authority; or
- (c) Upon voluntary consent of the person, parent of a minor person or legal guardian of the person.

2. Except as otherwise provided in subsection 3, 4 or 5, a person voluntarily or involuntarily isolated or quarantined under subsection 1 must be released within 72 hours, including weekends and holidays, from the time of the admission of the person to a medical facility or isolation or quarantine in a residence or other safe location, unless within that period:

(a) The additional voluntary consent of the person, the parent of a minor person or a legal guardian of the person is obtained;

(b) A written petition for an involuntary court-ordered isolation or quarantine is filed with the clerk of the district court pursuant to NRS 441A.600, including, without limitation, the documents required pursuant to NRS 441A.610; or

(c) The status of the person is changed to a voluntary isolation or quarantine.

3. A person who is involuntarily isolated or quarantined under subsection 1 may, immediately after the person is isolated or quarantined, seek an injunction or other appropriate process in district court challenging his or her detention.

4. If the period specified in subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

5. During a state of emergency or declaration of disaster regarding public health proclaimed by the Governor or the Legislature pursuant to NRS 414.070, a health authority may, before the expiration of the period of 72 hours set forth in subsection 2, petition, with affidavits supporting its request, a district court for an order finding that a reasonably foreseeable immediate threat to the health of the public requires the 72-hour period of time to be extended for no longer than the court deems necessary for available governmental resources to investigate, file and prosecute the relevant written petitions for involuntary court-ordered isolation or quarantine pursuant to NRS ~~441A.500~~ **441A.510** to 441A.720, inclusive.

Sec. 19. NRS 441A.560 is hereby amended to read as follows:

441A.560 1. An application to a health authority for an order of emergency isolation or quarantine of a person or a group of persons alleged to have been infected with or exposed to a communicable disease may only be made by another health authority, a physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS, a registered nurse or a medical facility by submitting the certificate required by NRS 441A.570.

Within its jurisdiction, upon application or on its own, subject to the provisions of NRS ~~[441A.500]~~ **441A.510** to 441A.720, inclusive, a health authority may:

(a) Pursuant to its own order and without a warrant:

(1) Take a person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease into custody in any safe location under emergency isolation or quarantine for testing, examination, observation and the provision of or arrangement for the provision of consensual medical treatment; and

(2) Transport the person or group of persons alleged to and reasonably believed by the health authority to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose, or arrange for the person or group of persons to be transported for that purpose by:

(I) A local law enforcement agency;

(II) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(III) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➤ only if the health authority acting in good faith has, based upon personal observation, its own epidemiological investigation or an epidemiological investigation by another health authority, a physician, a physician assistant licensed pursuant to chapter 630 or 633 of NRS or a registered nurse as stated in a certificate submitted pursuant to NRS 441A.570, if such a certificate was submitted, of the person or group of persons alleged to have been infected with or exposed to a communicable disease, a reasonable factual and medical basis to believe that the person or group of persons has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of members of the public who have not been infected with or exposed to the communicable disease.

(b) Petition a district court for an emergency order requiring:

(1) Any health authority or peace officer to take a person or group of persons alleged to have been infected with or exposed to a communicable disease into custody to allow the health authority to investigate, file and prosecute a petition for the involuntary court-ordered isolation or quarantine of the person or group of persons alleged to have been infected with or exposed to a communicable disease in the manner set forth in NRS ~~[441A.500]~~ **441A.510** to 441A.720, inclusive; and

(2) Any agency, system or service described in subparagraph (2) of paragraph (a) to transport, in accordance with such court order, the person or group of persons alleged to have been infected with or exposed to a communicable disease to a public or private medical facility, a residence or other safe location for that purpose.

2. The district court may issue an emergency order for isolation or quarantine pursuant to paragraph (b) of subsection 1:

(a) Only for the time deemed necessary by the court to allow a health authority to investigate, file and prosecute each petition for involuntary court-ordered isolation or quarantine pursuant to NRS ~~[441A.500]~~ **441A.510** to 441A.720, inclusive; and

(b) Only if it is satisfied that there is probable cause to believe that the person or group of persons alleged to have been infected with or exposed to a communicable disease has been infected with or exposed to a communicable disease, and that because of the risks of that disease, the person or group of persons is likely to be an immediate threat to the health of the public.

Sec. 20. NRS 441A.640 is hereby amended to read as follows:

441A.640 1. The ~~{Health Division}~~ **health authority** shall establish such evaluation teams as are necessary to aid the courts under NRS 441A.630 and 441A.700.

2. Each team must be composed of at least two physicians, or at least one physician and one physician assistant licensed pursuant to chapter 630 or 633 of NRS.

3. Fees for the evaluations must be established and collected as set forth in NRS 441A.650.

Sec. 21. NRS 441A.690 is hereby amended to read as follows:

441A.690 Witnesses subpoenaed under the provisions of NRS ~~[441A.500]~~ **441A.510** to 441A.720, inclusive, shall be paid the same fees and mileage as are paid to witnesses in the courts of the State of Nevada.

Sec. 22. NRS 441A.720 is hereby amended to read as follows:

441A.720 When any involuntary court isolation or quarantine is ordered under the provisions of NRS ~~[441A.500]~~ **441A.510** to 441A.720, inclusive, the involuntarily isolated or quarantined person, together with the court orders, any certificates of the health authorities, physicians, physician assistants licensed pursuant to chapter 630 or 633 of NRS or registered nurses, the written summary of the evaluation team and a full and complete transcript of the notes of the official reporter made at the examination of such person before the court, must be delivered to the sheriff of the appropriate county who must be ordered to:

1. Transport the person; or

2. Arrange for the person to be transported by:

(a) A system for the nonemergency medical transportation of persons whose operation is authorized by the Nevada Transportation Authority; or

(b) If medically necessary, an ambulance service that holds a permit issued pursuant to the provisions of chapter 450B of NRS,

➡ to the appropriate public or private medical facility, residence or other safe location.

Sec. 23. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any money the Health Division receives from a fee set by the State Board of Health pursuant to NRS 439.150 for the issuance or renewal of a license pursuant to NRS 450B.160, an administrative penalty imposed pursuant to NRS 450B.900 or an appropriation made by the Legislature for the purposes of training related to emergency medical services:

(a) Must be deposited in the State Treasury and accounted for separately in the State General Fund;

(b) May be used only to carry out a training program for emergency medical services personnel who work for a volunteer ambulance service or firefighting agency, including, without limitation, equipment for use in the training; and

(c) Does not revert to the State General Fund at the end of any fiscal year.

2. Any interest or income earned on the money in the account must be credited to the account. Any claims against the account must be paid in the manner that other claims against the State are paid.

3. The Administrator of the Health Division shall administer the account.

Sec. 24. NRS 450B.900 is hereby amended to read as follows:

450B.900 **1.** Any person who violates any of the provisions of this chapter is guilty of a misdemeanor.

2. In addition to any criminal penalty imposed, the Health Division may impose against any person who violates any of the provisions of this chapter, an administrative penalty in an amount established by the State Board of Health by regulation.

Sec. 25. NRS 3.223 is hereby amended to read as follows:

3.223 **1.** Except if the child involved is subject to the jurisdiction of an Indian tribe pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. §§ 1901 et seq., in each judicial district in which it is established, the family court has original, exclusive jurisdiction in any proceeding:

(a) Brought pursuant to title 5 of NRS or chapter 31A, 123, 125, 125A, 125B, 125C, 126, 127, 128, 129, 130, 159, 425 or 432B of NRS, except to the extent that a specific statute authorizes the use of any other judicial or administrative procedure to facilitate the collection of an obligation for support.

(b) Brought pursuant to NRS 442.255 and 442.2555 to request the court to issue an order authorizing an abortion.

(c) For judicial approval of the marriage of a minor.

(d) Otherwise within the jurisdiction of the juvenile court.

(e) To establish the date of birth, place of birth or parentage of a minor.

(f) To change the name of a minor.

(g) For a judicial declaration of the sanity of a minor.

(h) To approve the withholding or withdrawal of life-sustaining procedures from a person as authorized by law.

(i) Brought pursuant to NRS 433A.200 to 433A.330, inclusive, for an involuntary court-ordered admission to a mental health facility.

(j) Brought pursuant to NRS ~~441A.500~~ **441A.510** to 441A.720, inclusive, for an involuntary court-ordered isolation or quarantine.

2. The family court, where established and, except as otherwise provided in paragraph (m) of subsection 1 of NRS 4.370, the justice court have concurrent jurisdiction over actions for the issuance of a temporary or extended order for protection against domestic violence.

3. The family court, where established, and the district court have concurrent jurisdiction over any action for damages brought pursuant to NRS 41.134 by a person who suffered injury as the proximate result of an act that constitutes domestic violence.

Sec. 25.5. NRS 218E.405 is hereby amended to read as follows:

218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~and~~ **and section 1 of this act.** In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

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

(a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;

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

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

Sec. 26. NRS 441A.500 is hereby repealed.

Sec. 27. 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. 28. 1. Any contract or other agreement entered into by the Health Division of the Department of Health and Human Services is binding upon the State Health Officer if the responsibility for administration of the contract or other agreement is transferred. Any such contract or other agreement may be enforced by the State Health Officer if the responsibility for administration of the contract or other agreement is transferred.

2. Any contract or other agreement entered into by the Health Division of the Department of Health and Human Services is binding upon the district health officer in a district or the district health officer's designee if the responsibility for administration of the contract or other agreement is transferred. Any such contract or other agreement may be enforced by the district health officer in a district or the district health officer's designee if the responsibility for administration of the contract or other agreement is transferred.

Sec. 29. Any action taken by an officer or agency whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer or agency remains in effect as if taken by the officer or agency to which the responsibility for the enforcement of such actions has been transferred.

Sec. 30. The Health Division of the Department of Health and Human Services shall cooperate with the State Health Officer and the district health officer in a district or the district health officer's designee to ensure that the provisions of this act are carried out in an orderly manner.

Sec. 31. The Legislative Counsel shall, in preparing:

1. The reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or adopted or amended by another act, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

2. Supplements to the Nevada Administrative Code, appropriately change any references to an officer, agency or other entity whose name is changed or whose duties are transferred pursuant to the provisions of this act to refer to the appropriate officer, agency or other entity.

Sec. 32. This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

441A.500 "Health authority" defined. As used in NRS 441A.500 to 441A.720, inclusive, unless the context otherwise requires, "health authority" means:

1. The officers and agents of the Health Division;
2. The officers and agents of a health district; or

3. The district health officer in a district, or the district health officer's designee, or, if none, the State Health Officer, or the State Health Officer's designee.

Senator Leslie moved the adoption of the amendment.

Remarks by Senator Leslie.

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

This is a budget implementation bill. It relates to the costs of providing various services and how the counties will pay. It also revises the membership of the District Board of Health in certain counties.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 476.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 872.

"SUMMARY—Makes various changes concerning the juvenile justice system. (BDR 5-1216)"

"AN ACT relating to juvenile justice; requiring each county to pay an assessment to the State for the activities of the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services; **authorizing a county to submit a proposal for the county to provide the services of the Youth Parole Bureau for the county and receive an exemption from the assessment**; prohibiting a juvenile court from committing a delinquent child to a private institution; revising the manner in which a determination is made about where to commit a delinquent child; revising provisions relating to a juvenile who is held in a detention facility pending a hearing concerning a violation of parole; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Existing law requires certain counties to pay an assessment for the operation of regional facilities for the detention of children that are partially supported by the State of Nevada and are operated by the county. (NRS 62B.150) Section 6 of this bill repeals that provision.]~~ **Section 1** of this bill ~~instead~~ requires each county to pay an assessment for the activities of the Youth Parole Bureau of the Division of Child and Family Services of the Department of Health and Human Services. The amount of the assessment is determined by the Administrator of the Division of Child and Family Services using a formula that is based upon the number of pupils enrolled in public schools in the county. **Section 1 allows a county to request an exemption from the assessment by submitting a proposal to the Governor for the county to carry out the functions of the Youth Parole Bureau for the county. If the Governor approves the proposal, the Interim Finance Committee must consider whether to approve the exemption. Section 4.5 of this bill provides that if such an exemption is**

approved, the county is required to carry out the functions of the Youth Parole Bureau.

Section 2 of this bill removes the authority of a juvenile court to commit a child to a private institution under certain circumstances.

~~[Existing law allows a juvenile court to commit a delinquent child to the custody of the Division of Child and Family Services for suitable placement, including a child between 8 and 12 years of age in certain circumstances. (NRS 62E.520) Section 3 of this bill removes the authority of a juvenile court to place a child who is between 8 and 12 years of age in a correctional or institutional facility. In addition, section 3 requires the juvenile court to confirm that there is a room allocated for the child in a state facility for the detention of children and adequate resources in the state facility to provide the necessary care of the child before committing the child to a state facility. Section 4 of this bill requires the Division to make an annual determination of the equitable allocation of rooms for each judicial district. The determination is based upon the number of pupils enrolled in public schools within the judicial district.]~~

Existing law authorizes a juvenile court to order the return of a child who is alleged to have violated parole to a state facility for the detention of children or to be held in the local or regional facility for the detention of children pending a hearing. In addition, if the child is held in a local or regional facility, existing law requires the Youth Parole Bureau to pay the costs for the confinement of the child. (NRS 63.770) **Section 5** of this bill removes the authority of a juvenile court to order the child to be returned to a state facility for the detention of children in such circumstances and ~~removes the requirement that~~ **authorizes, instead of requiring,** the Youth Parole Bureau pay the costs of confinement of a child who is held, pending a hearing, in a local or regional facility for the detention of children ~~to~~ **to the extent that money is available for that purpose.**

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

Section 1. Chapter 62B of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~Each~~ Unless an exemption is approved pursuant to subsection 4, each county shall pay an assessment for the activities of the Youth Parole Bureau that are necessary to carry out ~~its duties~~ the provisions of NRS 63.700 to 63.780, inclusive.

2. The assessment owed by each county equals the total amount budgeted by the Legislature for the operation of the Youth Parole Bureau, divided by the total number of pupils enrolled in grades 7 through 12 in public schools in this State in the preceding school year and multiplied by the number of pupils enrolled in grades 7 through 12 in public schools in the assessed county. The Administrator of the Division of Child and Family Services shall calculate the assessment owed by each county in June of each year for the ensuing fiscal year.

3. *Each county must pay the assessed amount to the Division of Child and Family Services in quarterly installments that are due the first day of the first month of each calendar quarter.*

4. A county may submit a proposal to the Governor for the county to carry out the provisions of NRS 63.700 to 63.780, inclusive, with respect to any child released from a state facility for the detention of children who resides within the county. If the Governor approves the proposal, the Governor must submit a recommendation to the Interim Finance Committee to exempt the county from the assessment required pursuant to subsection 1. The Interim Finance Committee, upon receiving the recommendation from the Governor, shall consider the proposal and determine whether to approve the exemption. In considering whether to approve the exemption, the Interim Finance Committee shall consider, among other things, the best interests of the State, the effect of the exemption and the intent of the Legislature in requiring the assessment to be paid by each county.

Sec. 2. NRS 62E.510 is hereby amended to read as follows:

62E.510 1. If a delinquent child is less than 12 years of age, the juvenile court shall not commit the child to a state facility for the detention of children.

2. If a delinquent child is 12 years of age or older, the juvenile court shall not commit the child to a private institution . ~~[unless the commitment is approved by the superintendent of the state facility for the detention of children to which the child would otherwise have been committed.]~~

Sec. 3. ~~[NRS 62E.520 is hereby amended to read as follows:~~

~~— 62E.520 1. The juvenile court may commit a delinquent child to the custody of the Division of Child and Family Services for [suitable] placement in a state facility for the detention of children if [:~~

~~— (a) The child is at least 8 years of age but less than 12 years of age, and the juvenile court finds that the child is in need of placement in a correctional or institutional facility; or~~

~~— (b) The] the child is at least 12 years of age but less than 18 years of age [, and the juvenile court finds that the child:~~

~~— (1) Is in need of placement in a correctional or institutional facility; and~~

~~— (2) Is in need of residential psychiatric services or other residential services for the mental health of the child.] and the court has confirmed that there is a room allocated for the child in a state facility for the detention of children and adequate resources in the facility to provide the necessary care of the child.~~

~~2. Before the juvenile court commits a delinquent child to the custody of the Division of Child and Family Services, the juvenile court shall:~~

~~— (a) Notify the Division at least 3 working days before the juvenile court holds a hearing to consider such a commitment; and~~

~~— (b) At the request of the Division, provide the Division with not more than 10 working days within which to:~~

- ~~— (1) Investigate the child and the circumstances of the child; and~~
- ~~— (2) Recommend a suitable placement to the juvenile court.}] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 63.400 is hereby amended to read as follows:~~

~~63.400 1. If the juvenile court or the Division of Child and Family Services commits or places a child in a facility, the superintendent of the facility shall accept the child unless, before the child is conveyed to the facility, the superintendent determines that:~~

~~— (a) There is not [adequate] room [or resources] allocated in the facility [to provide the necessary care of] for the child [;] as determined pursuant to subsection 2;~~

~~— (b) There [is] are not adequate [money] resources available [for the support of] in the facility [;] to provide the necessary care for the child; or~~

~~— (c) In the opinion of the superintendent, the child is not suitable for admission to the facility.~~

~~2. On or before July 1 of each year, the Division of Child and Family Services shall determine an equitable allocation of rooms for each judicial district based upon the ratio that the number of pupils who were enrolled in grades 7 through 12 in public schools within the judicial district during the preceding school year bears to the total number of pupils enrolled in grades 7 through 12 in public schools in this State, as determined by the Department of Education.~~

~~3. The superintendent of the facility shall fix the time at which the child must be delivered to the facility.~~

~~[3.] 4. The juvenile court shall send to the superintendent of the facility a summary of all the facts in the possession of the juvenile court concerning the history of the child committed to the facility.}] (Deleted by amendment.)~~

Sec. 4.5. Chapter 63 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A county that receives approval to carry out the provisions of NRS 63.700 to 63.780, inclusive, and an exemption from the assessment imposed pursuant to section 1 of this act shall:

(a) Carry out the provisions of NRS 63.700 to 63.780, inclusive; and

(b) Appoint a person to act in the place of the Chief of the Youth Parole Bureau in carrying out those provisions.

2. When a person is appointed by the county to act in the place of the Chief of the Youth Parole Bureau pursuant to subsection 1, the person so appointed shall be deemed to be the Chief of the Youth Parole Bureau for the purposes of NRS 63.700 to 63.780, inclusive.

Sec. 5. NRS 63.770 is hereby amended to read as follows:

63.770 1. A petition may be filed with the juvenile court to request that the parole of a child be suspended, modified or revoked.

2. Pending a hearing, the juvenile court may order {:

— (a) The return of the child to the facility; or

~~—(b) If approved by a local or regional facility for the detention of children, that the child be held in the local or regional facility *for the detention of children.*~~

3. If the child is held in a local or regional facility for the detention of children pending a hearing, the Youth Parole Bureau ~~must~~ *may* pay all actual and reasonably necessary costs for the confinement of the child in the local or regional facility ~~[-] to the extent that money is available for that purpose.~~

4. If requested, the juvenile court shall allow the child reasonable time to prepare for the hearing.

5. ~~4.7~~ The juvenile court shall render a decision within 10 days after the conclusion of the hearing.

Sec. 6. ~~[NRS 62B.150 is hereby repealed.] (Deleted by amendment.)~~

Sec. 7. 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. 8. This act becomes effective on July 1, 2011.

f

TEXT OF REPEALED SECTION

~~—62B.150 Certain counties to pay assessment for operation of regional facilities for detention of children partially supported by State.~~

~~—1. Except as otherwise provided in subsection 6, each county shall pay an assessment for the operation of each regional facility for the detention of children that is partially supported by the State of Nevada and is operated by a county whose population is less than 400,000.~~

~~—2. The assessment owed by each county equals the total amount budgeted by the Legislature for the operation of the regional facility, minus any money appropriated by the Legislature for the support of the regional facility, divided by the total number of pupils in this State in the preceding school year, excluding pupils in counties whose population is 400,000 or more, and multiplied by the number of pupils in the assessed county. The Administrator of the Division of Child and Family Services shall calculate the assessment owed by each county in June of each year for the ensuing fiscal year.~~

~~—3. Each county must pay the assessed amount to the Division of Child and Family Services in quarterly installments that are due the first day of the first month of each calendar quarter.~~

~~—4. The Administrator of the Division of Child and Family Services shall deposit the money received pursuant to subsection 3 in a separate account in the State General Fund. The money in the account may be withdrawn only by the Administrator for the operation of regional facilities for the detention of children.~~

~~—5. Revenue raised by a county to pay the assessment required pursuant to subsection 1 is not subject to the limitations on revenue imposed pursuant to chapter 354 of NRS and must not be included in the calculation of those limitations.~~

~~6. The provisions of this section do not apply to a county whose population is 400,000 or more.~~

~~7. As used in this section, "regional facility for the detention of children" or "regional facility" does not include the institution in Lyon County known as Western Nevada Regional Youth Center.]~~

Senator Leslie moved the adoption of the amendment.

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

This bill as amended requires each county in the State to pay an assessment for the cost of the activities of the Youth Parole Bureau for the Division of Child and Family Services. This is a budget implementation bill that requires the counties to start paying part of the cost of youth parole.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 480.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 871.

"SUMMARY—~~[Provides for the collection of costs for providing]~~ **Revises provisions relating to** child protective services in certain less populated counties. (BDR 38-1219)"

"AN ACT relating to the protection of children; requiring certain less populated counties to ~~reimburse~~ **pay an assessment to** the Division of Child and Family Services of the Department of Health and Human Services for the costs of providing child protective services; **authorizing a county to submit a proposal for the county to provide those services and receive an exemption from the assessment;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Division of Child and Family Services of the Department of Health and Human Services, in counties whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties), to provide directly or arrange for the provision of child welfare services, including protective services, foster care services and adoption services. (NRS 432B.044, 432B.180) ~~[Sections]~~ **Section 4** ~~and 7~~ of this bill ~~require the~~ **requires each of those counties to pay to the** Division of Child and Family Services ~~[to collect from those counties payment]~~ **an assessment** for the provision of child protective services not to exceed the limit of legislative authorization for spending on child protective services by the Division in each such county. **Section 4 allows a county to request an exemption from the assessment by submitting a proposal to the Governor for the county to carry out child protective services for the county. If the Governor approves the proposal, the Interim Finance Committee must consider whether to approve the exemption. Section 7 of this bill provides that if such an exemption is approved, the county is**

required to carry out child protective services for the county in accordance with standards adopted by the Division and pay for the cost of those services.

Section 3 of this bill requires the Division to provide reports of certain information about the provision of child protective services to each county whose population is less than 100,000 and to the Governor. **Section 3** also requires the Division to provide to each such county the total proposed budget of the Division for providing child protective services in that county for the next succeeding biennium.

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

Section 1. Chapter 432B of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Child protective services" means services for the protection of children, including, without limitation, investigations of abuse or neglect and assessments. The term does not include foster care services or services related to adoption.*

Sec. 3. *The Division of Child and Family Services shall submit:*

1. A report on or before December 1 of each year to the Governor and to each county whose population is less than 100,000 that contains a statement of:

(a) The total number of children who received child protective services in each county in the immediately preceding fiscal year; and

(b) The amount and categories of the expenditures made by the Division on child protective services in each county in the immediately preceding fiscal year;

2. To each county whose population is less than 100,000, on or before December 1 of each even-numbered year, the total proposed budget of the Division for that county for the next succeeding biennium, including the projected number of children who will receive child protective services and the projected costs of child protective services attributed to the county; and

3. Such reports to the Legislative Commission as required by the Commission.

Sec. 4. ~~*1. Each fiscal year, the Division of Child and Family Services shall collect from a*~~ *Unless an exemption is approved pursuant to subsection 4, each county whose population is less than 100,000 [amounts] shall pay an assessment each fiscal year to the Division of Child and Family Services in an amount which [do] does not exceed the [amounts] amount authorized by the Legislature for the provision of child protective services by the Division in the county during that year.*

2. The Division shall provide each county whose population is less than 100,000, on or before May 1 of each year, with an estimate of the amount [to be collected pursuant to subsection 1.] of the assessment. The estimate becomes [the final bill] the amount of the assessment unless the county is notified of a change within 2 weeks after the date on which the county

contribution is approved by the Legislature. The county shall pay the ~~[bill]~~ assessment:

(a) In full within 30 days after the ~~estimate becomes the final bill or the county receives a revised estimate;~~ amount of the assessment becomes final; or

(b) In equal quarterly installments on or before the first day of July, October, January and April, respectively.

3. Money paid by a county pursuant to this section must be deposited by the Division with the State Treasurer, and the Division shall expend the money in accordance with the approved budget of the Division.

4. A county whose population is less than 100,000 may submit a proposal to the Governor for the county to carry out child protective services for the county. If the Governor approves the proposal, the Governor must submit a recommendation to the Interim Finance Committee to exempt the county from the assessment required pursuant to subsection 1. The Interim Finance Committee, upon receiving the recommendation from the Governor, shall consider the proposal and determine whether to approve the exemption. In considering whether to approve the exemption, the Interim Finance Committee shall consider, among other things, the best interests of the State, the effect of the exemption and the intent of the Legislature in requiring the assessment to be paid by the county.

Sec. 5. NRS 432B.010 is hereby amended to read as follows:

432B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 432B.020 to 432B.110, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 6. NRS 432B.044 is hereby amended to read as follows:

432B.044 "Child welfare services" includes, without limitation:

1. ~~{Protective services, including, without limitation, investigations of abuse or neglect and assessments;}~~ ~~["Child protective services" as that term is defined in section 2 of this act;]~~ **Child protective services;**

2. Foster care services, including, without limitation, maintenance and special services, as defined in NRS 432.010; and

3. Services related to adoption.

Sec. 7. NRS 432B.325 is hereby amended to read as follows:

432B.325 **1.** Each county whose population is 100,000 or more shall provide **child** protective services ~~{for the children}~~ in that county and pay the cost of those services. The services must be provided in accordance with the standards adopted pursuant to NRS 432B.190.

2. ~~{Each}~~ **A county whose population is less than 100,000 [shall pay the Division of Child and Family Services] that receives approval to carry out child protective services for the county and an exemption from the assessment imposed pursuant to section 4 of this act [for] shall;**

(a) Provide child protective services [provided by the Division] in that county and pay the cost of those services.

(b) Provide the services in accordance with the standards adopted pursuant to NRS ~~432B.180~~ 432B.190.

3. A county whose population is less than 100,000 that carries out child protective services for the county shall be deemed to be the agency which provides child welfare services for the purposes of any provisions of this chapter relating to child protective services and any regulations adopted pursuant thereto.

Sec. 8. NRS 432B.490 is hereby amended to read as follows:

432B.490 1. An agency which provides child welfare services:

(a) In cases where the death of a parent of the child is or may be the result of an act by the other parent that constitutes domestic violence pursuant to NRS 33.018, shall within 10 days after the hearing on protective custody initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510;

(b) In other cases where a hearing on protective custody is held, shall within 10 days after the hearing on protective custody, unless good cause exists, initiate a proceeding in court by filing a petition which meets the requirements set forth in NRS 432B.510 or recommend against any further action in court; or

(c) If a child is not placed in protective custody, may, after an investigation is made under NRS 432B.010 to 432B.400, inclusive, **and sections 2, 3 and 4 of this act**, file a petition which meets the requirements set forth in NRS 432B.510.

2. If the agency recommends against further action, the court may, on its own motion, initiate proceedings when it finds that it is in the best interests of the child.

3. If a child has been placed in protective custody and if further action in court is taken, an agency which provides child welfare services shall make recommendations to the court concerning whether the child should be returned to the person responsible for the welfare of the child pending further action in court.

Sec. 9. 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. 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.

Senate Bill No. 480, as amended, requires the Division of Child and Family Services to assess counties whose populations are less than 100,000, currently all counties except Clark County and Washoe County, for the cost of child protective services. The bill requires the Division to submit reports on a prescribed schedule to the Governor, the affected counties, and the Legislative Commission with information on the number of children receiving child protective services and the costs of those services. Clark County and Washoe County already pay for those services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 359.

Bill read second time.

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

Amendment No. 875.

"SUMMARY—Revises provisions governing energy. (BDR 58-1064)"

"AN ACT relating to energy; revising the categories of uses, capacity goals and prospective expiration of the Waterpower Energy Systems Demonstration Program; revising provisions governing net metering for waterpower energy systems; ~~revising the cumulative capacity requirement for net metering systems;~~ **revising provisions governing net metering for certain wind energy systems;** and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The Waterpower Energy Systems Demonstration Program was established for agricultural uses with a goal of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012. (NRS 701B.820, 701B.840) The Waterpower Program is currently set to expire on June 30, 2011. **Section 1** of this bill expands the Waterpower Program to encompass Indian tribes and tribal organizations that are customers of a utility. **Section 2** of this bill increases the capacity goals for the Waterpower Program ~~, [and limits the amount of any rebate provided pursuant to the Waterpower Program,]~~ and **sections 9-11** of this bill extend the Waterpower Program until June 30, 2016. **Section 6** of this bill authorizes a person who installs a waterpower energy system to participate in net metering if the waterpower energy system is located on property owned by the customer-generator and generates electricity primarily intended to offset the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator. **Section 6 also authorizes certain persons who install certain wind energy systems on property owned or leased by an institution of higher education in this State to participate in net metering. Section 3.7 of this bill provides that persons who own or operate such wind energy systems are not considered public utilities.**

~~[Each electric utility in this State is required to offer net metering to customer-generators of the utility until the cumulative capacity of net metering systems in the service area of the utility is equal to 1 percent of the utility's peak capacity. (NRS 704.773) Section 7 of this bill requires a utility to offer net metering until the cumulative capacity of net metering systems is equal to 1 percent of the total peak capacity of all utilities in this State and further authorizes the Public Utilities Commission of Nevada to increase the~~

~~cumulative capacity requirement for net metering to 1.5 percent of the total peak capacity of all utilities in this State under certain circumstances.]~~

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

Section 1. NRS 701B.820 is hereby amended to read as follows:

701B.820 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for ~~[agricultural uses.]~~ :

(a) Agricultural uses; and

(b) Indian tribes and tribal organizations that are customers of a utility.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4, apply to a utility and be selected by the utility for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 2. NRS 701B.840 is hereby amended to read as follows:

701B.840 The Commission shall adopt regulations that establish:

1. The capacity goals for the Program, which must be designed to meet the goal of the Legislature of the installation of not less than ~~[500 kilowatts of waterpower energy systems in this State by 2012]~~ *5 megawatts of waterpower energy systems in this State by 2016* and the goals for each category of the Program. *The regulations must provide that not less than 1 megawatt of capacity must be set aside for the installation of waterpower energy systems with a nameplate capacity of 100 kilowatts or less.*

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings. ~~[The regulations must provide that the amount of any rebate provided pursuant to the Program must not exceed 50 percent of the total cost of the installation of the waterpower energy system for which the rebate is provided.]~~

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 3. (Deleted by amendment.)

Sec. 3.5. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

"Contiguous" means either abutting directly on the boundary or separated by a street, alley, public right-of-way, creek, river or the right-of-way of a railroad or other public service corporation.

Sec. 3.7. NRS 704.021 is hereby amended to read as follows:

704.021 "Public utility" or "utility" does not include:

1. Persons engaged in the production and sale of natural gas, other than sales to the public, or engaged in the transmission of natural gas other than as a common carrier transmission or distribution line or system.

2. Persons engaged in the business of furnishing, for compensation, water or services for the disposal of sewage, or both, to persons within this State if:

(a) They serve 25 persons or less; and

(b) Their gross sales for water or services for the disposal of sewage, or both, amounted to \$25,000 or less during the immediately preceding 12 months.

3. Persons not otherwise engaged in the business of furnishing, producing or selling water or services for the disposal of sewage, or both, but who sell or furnish water or services for the disposal of sewage, or both, as an accommodation in an area where water or services for the disposal of sewage, or both, are not available from a public utility, cooperative corporations and associations or political subdivisions engaged in the business of furnishing water or services for the disposal of sewage, or both, for compensation, to persons within the political subdivision.

4. Persons who are engaged in the production and sale of energy, including electricity, to public utilities, cities, counties or other entities which are reselling the energy to the public.

5. Persons who are subject to the provisions of NRS 590.465 to 590.645, inclusive.

6. Persons who are engaged in the sale or use of special fuel as defined in NRS 366.060.

7. Persons who provide water from water storage, transmission and treatment facilities if those facilities are for the storage, transmission or treatment of water from mining operations.

8. Persons who are video service providers, as defined in NRS 711.151, except for those operations of the video service provider which consist of providing a telecommunication service to the public, in which case the video service provider is a public utility only with regard to those operations of the video service provider which consist of providing a telecommunication service to the public.

9. Persons who own or operate a net metering system described in paragraph (c) of subsection 1 of NRS 704.771.

10. Persons who for compensation own or operate individual systems which use renewable energy to generate electricity and sell the electricity generated from those systems to not more than one customer of the public utility per individual system if each individual system is:

(a) Located on the premises of another person;

(b) Used to produce not more than 150 percent of that other person's requirements for electricity on an annual basis for the premises on which the individual system is located; and

(c) Not part of a larger system that aggregates electricity generated from renewable energy for resale or use on premises other than the premises on which the individual system is located.

➔ As used in this subsection, "renewable energy" has the meaning ascribed to it in NRS 704.7811.

Sec. 4. NRS 704.766 is hereby amended to read as follows:

704.766 It is hereby declared to be the purpose and policy of the Legislature in enacting NRS 704.766 to 704.775, inclusive, *and section 3.5 of this act* to:

1. Encourage private investment in renewable energy resources;
2. Stimulate the economic growth of this State;
3. Enhance the continued diversification of the energy resources used in this State; and
4. Streamline the process for customers of a utility to apply for and install net metering systems.

Sec. 5. NRS 704.767 is hereby amended to read as follows:

704.767 As used in NRS 704.766 to 704.775, inclusive, *and section 3.5 of this act*, unless the context otherwise requires, the words and terms defined in NRS 704.768 to 704.772, inclusive, *and section 3.5 of this act* have the meanings ascribed to them in those sections.

Sec. 6. NRS 704.771 is hereby amended to read as follows:

704.771 1. "Net metering system" means ~~{a}~~ :

(a) A facility or energy system for the generation of electricity that:

~~{(a)}~~ (1) Uses renewable energy as its primary source of energy to generate electricity;

~~{(b)}~~ (2) Has a generating capacity of not more than 1 megawatt;

~~{(c)}~~ (3) Is located on the customer-generator's premises;

~~{(d)}~~ (4) Operates in parallel with the utility's transmission and distribution facilities; and

~~{(e)}~~ (5) Is intended primarily to offset part or all of the customer-generator's requirements for electricity ~~{-}~~ ; ~~for~~

(b) A facility or energy system for the generation of electricity that:

(1) Uses waterpower as its primary source of energy to generate electricity;

(2) Is located on property owned by the customer-generator;

(3) Has a generating capacity of not more than 1 megawatt;

(4) Generates electricity that is delivered to the transmission and distribution facilities of the utility; and

(5) Is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or contiguous property owned by the customer-generator ~~{-}~~ ; or

(c) A facility or energy system for the generation of electricity:

(1) Which uses wind power as its primary source of energy to generate electricity;

(2) Which is located on property owned or leased by an institution of higher education in this State;

(3) Which has a generating capacity of not more than 1 megawatt;

(4) Which operates in parallel with the utility's transmission and distribution facilities;

(5) Which is intended primarily to offset all or part of the customer-generator's requirements for electricity on that property or on contiguous property owned or leased by the customer-generator;

(6) Which is used for research and workforce training; and

(7) The construction or installation of which is commenced on or before December 31, 2011, and is completed on or before December 31, 2012.

2. The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred ~~{fifty}~~ percent of the ~~{peak demand of the customer.}~~ *customer-generator's annual requirements for electricity.*

Sec. 7. NRS 704.773 is hereby amended to read as follows:

704.773 1. A ~~{Except as otherwise provided in this subsection, a}~~ utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's ~~{total}~~ peak capacity, for all utilities in this State. If, at any time, the Commission determines that the cumulative capacity of all such net metering systems is 0.8 percent or more of the total peak capacity of all utilities in this State, the Commission may issue an order requiring a utility to offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1.5 percent of the total peak capacity of all utilities in this State.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~{100}~~ 25 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~100~~ 25 kilowatts, the utility:

(a) May require the customer-generator to install at its own cost:

(1) An energy meter that is capable of measuring generation output and customer load; and

(2) Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.

(b) Except as otherwise provided in paragraph (c), may charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.

(c) Shall not charge the customer-generator any standby charge.

➤ At the time of installation or upgrade of any portion of a net metering system, the utility must allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.

4. *If the net metering system of a customer-generator is a net metering system described in paragraph (b) or (c) of subsection 1 of NRS 704.771 and:*

(a) The system is intended primarily to offset part or all of the customer-generator's requirements for electricity on property contiguous to the property on which the net metering system is located; and

(b) The customer-generator sells or transfers his or her interest in the contiguous property,

➤ *the net metering system ceases to be eligible to participate in net metering.*

5. The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:

(a) The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:

(1) Metering equipment;

(2) Net energy metering and billing; and

(3) Interconnection,

➤ based on the allowable size of the net metering system.

(b) The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.

(c) A timeline for processing applications and contracts for net metering applicants.

(d) Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive ~~[-]~~, **and section 3.5 of this act.**

Sec. 8. (Deleted by amendment.)

Sec. 8.5. NRS 704.7815 is hereby amended to read as follows:

704.7815 "Renewable energy system" means:

1. A facility or energy system that uses renewable energy or energy from a qualified energy recovery process to generate electricity and:

(a) Uses the electricity that it generates from renewable energy or energy from a qualified recovery process in this State; or

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process to a provider of electric service for delivery into and use in this State.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive ~~††~~, **and section 3.5 of this act.**

Sec. 9. Section 113 of chapter 509, Statutes of Nevada 2007, at page 2999, is hereby amended to read as follows:

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 1, 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1.5 to 29, inclusive, 43.5, 47, 51.3, 51.7, 108, 112 and 112.5 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 32.3, 32.5, 32.7, 33, 34 and 35 of this act, on January 1, 2009.

(5) For section 48 of this act, on January 1, 2010.

(6) For section 50 of this act, on January 1, 2011.

2. Sections 62 to ~~†106,†~~ **86**, inclusive, of this act expire by limitation on June 30, 2011.

3. Sections 87 to 105, inclusive, of this act expire by limitation on June 30, 2016.

Sec. 10. Section 13 of chapter 246, Statutes of Nevada 2009, at page 1002, is hereby amended to read as follows:

Sec. 13. 1. This act becomes effective on July 1, 2009.

2. ~~{Sections 2 and 3}~~ **Section 2** of this act ~~{expire}~~ **expires** by limitation on June 30, 2011.

3. Section 3 of this act expires by limitation on June 30, 2016.

Sec. 11. Section 21 of chapter 321, Statutes of Nevada 2009, at page 1410, is hereby amended to read as follows:

Sec. 21. 1. This section and sections 1 to 1.51, inclusive, 1.55 to 19.7, inclusive, and 19.9 to 20.9, inclusive, of this act become effective upon passage and approval.

2. Sections 1.51, 1.85, 1.87, 1.92, 1.93 ~~1.95,~~ and 4.3 to ~~19,~~ 7, inclusive, ~~and 19.4~~ of this act expire by limitation on June 30, 2011.

3. ~~Sections 1.53 and 19.8~~ **Section 1.53** of this act ~~become~~ **becomes** effective on July 1, 2011.

4. Sections 1.95 and 7.1 to 9, inclusive, of this act expire by limitation on June 30, 2016.

5. Section 19.8 of this act becomes effective on July 1, 2016.

Sec. 12. 1. This section and sections 9, 10 and 11 of this act become effective upon passage and approval.

2. Sections 1 to 8.5, inclusive, of this act become effective on July 1, 2011.

3. Sections 1 and 2 of this act expire by limitation on June 30, 2016.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. This amendment is about demonstration projects regarding wind energy systems and water systems. We amended this to make certain that both are compatible and both can be used in the law because there was a conflict on the net metering of the systems. This was an agreed upon amendment. The Assemblymen who proposed this amendment were happy with it.

Amendment adopted.

Assembly Bill No. 432.

Bill read second time and ordered to third reading.

Assembly Bill No. 524.

Bill read second time.

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

Amendment No. 803.

"SUMMARY ~~Increases certain fees for residential and general appraisers to cover an increase in federal registry fees.~~ **Revises provisions relating to appraisers of real estate.** (BDR 54-1199)"

"AN ACT relating to appraisers of real estate; revising provisions governing continuing education requirements for certified and licensed appraisers and registered interns; requiring the Commission of Appraisers of Real Estate to establish certain requirements concerning continuing education; requiring the Commission to establish certain fees relating to continuing education; requiring the Real Estate Division of the Department of Business and Industry to conduct certain investigations and examinations of each certified or licensed appraiser; requiring an appraiser who is investigated or examined by the Division

to pay certain costs relating to the investigation or examination; authorizing the Division to contract for or procure the services of certain persons to assist in or carry out investigations and examinations of appraisers; revising certain fees for the issuance or renewal of a license or certificate; making an appropriation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires an appraiser to complete certain continuing education as a condition for the renewal or reinstatement of a certificate or license and further requires the Commission of Appraisers of Real Estate to adopt regulations governing the continuing education requirements for appraisers. (NRS 645C.430, 645C.440) Section 2 of this bill requires appraisers and interns to complete a course of continuing education which must include education in ethics and issues relating to the appraisal of real property with an emphasis on trends and market conditions in Nevada and any changes in law which affect the appraisal of real property. Section 2 requires the Commission to establish a reasonable fee for the cost of the course. Section 2 additionally requires the Real Estate Division of the Department of Business and Industry to develop the curriculum for the course and submit the curriculum to the Commission for approval. Section 3 of this bill creates the Account for Real Estate Appraisal Audit and Education in the State General Fund and provides that the fees collected by the Division for the cost of the course of continuing education required by section 2 must be deposited in the Account and used to defray the costs of the Commission and the Division in carrying out the provisions of section 2.

Section 4 of this bill requires the Division to conduct an examination and investigation of each certified or licensed appraiser not less frequently than every 4 years. Section 4 authorizes the Division to contract for and procure the services of examiners and other specialized technical or professional assistance as may reasonably be required to carry out such examinations and investigations. Section 5 of this bill requires an appraiser who is subject to such examination or investigation to pay certain costs relating to the examination or investigation. Section 6 of this bill requires that all money collected pursuant to section 5 be used to pay the expenses relating to the examination or investigation of an appraiser or for any other purpose authorized by the Legislature.

Section 7.7 of this bill requires the Real Estate Administrator to employ an administrative assistant and an investigator to carry out the provisions of this bill and makes an appropriation from the State General Fund to the Real Estate Administration Account in Fiscal Year 2011-2012 and Fiscal Year 2012-2013 to pay the salaries and related expenses of these two new positions.

Under existing law, a fee of \$290 is charged for the issuance or biennial renewal of a license or certificate as a residential appraiser, and a fee of \$390 is charged for the issuance or biennial renewal of a certificate as a general appraiser. (NRS 645C.450) A portion of that fee, currently \$50, is retained by the Real Estate Division ~~for the Department of Business and Industry~~ for payment of the registry fee to the Federal Financial Institutions Examination Council. (NRS 645C.240) On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) was signed into law. (Pub. L. No. 111-203, 124 Stat. 1376) The Dodd-Frank Act revised 12 U.S.C. § 3338 to increase the annual registry fee from \$25 to \$40.

~~† This~~ **Section 7 of this** bill increases the biennial fees charged for the issuance or renewal of a license or certificate as a residential appraiser and for the issuance or renewal of a certificate as a general appraiser by \$30 to cover the annual \$15 increase in the federal registry fee.

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

Section 1. Chapter 645C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. 1. As a condition of the renewal or reinstatement of a certificate, license or registration issued pursuant to this chapter, and as a component of the continuing education required pursuant to NRS 645C.430 and 645C.440, each certified appraiser, licensed appraiser and registered intern in this State shall complete a course of continuing education which meets the requirements established by the Commission pursuant to paragraph (a) of subsection 2 and pay to the Division the fee established by the Commission pursuant to paragraph (b) of subsection 2.

2. The Commission shall by regulation establish:

(a) The requirements for a course of continuing education which must include, without limitation, education in ethics and issues relating to the appraisal of real property with an emphasis on trends and market conditions in this State and any changes in the law in this State which affect the appraisal of real property; and

(b) A reasonable fee for the cost of the course of continuing education required by this section.

3. The Division shall develop the curriculum for the course of continuing education required by this section in accordance with the requirements established by the Commission pursuant to subsection 2 and submit the curriculum to the Commission for approval.

Sec. 3. 1. The Account for Real Estate Appraisal Audit and Education is hereby created in the State General Fund. The Administrator shall administer the Account.

2. All money paid to the Division pursuant to section 2 of this act must be deposited in the Account. All interest and income earned on money in the Account must be credited to the Account. The money in the Account does not revert to the State General Fund at the end of any fiscal year.

3. All claims against the Account must be paid as other claims against the State are paid.

4. The money in the Account must be used to defray the costs and expenses incurred by the Commission and the Division in carrying out the provisions of section 2 of this act and may be used to defray any other costs incurred by the Division in enforcing the provisions of this chapter.

Sec. 4. 1. In addition to any other examinations and investigations expressly authorized, the Division shall, not less frequently than every 4 years, conduct an examination and investigation of each certified or licensed appraiser to determine whether any such appraiser has violated the Uniform Standards of Appraisal Practice of the Appraisal Institute or its successor or any provision of this chapter or to secure information useful in the lawful enforcement or administration of any such uniform standard or provision of law. Such examinations and investigations must include, without limitation:

(a) An examination of the appraisals, work files and records of each certified or licensed appraiser; and

(b) If an appraiser is not a resident of this State, submission to the Division by the appraiser of a log of appraisals performed by the appraiser from which the Division may select appraisals to be submitted to the Division for review.

2. The Division may contract for and procure the services of examiners and other specialized technical or professional assistance, as independent contractors or for a fee, as may reasonably be required to carry out the provisions of this section. None of the persons providing those services or assistance pursuant to a contract or for a fee may be in the classified service of the State.

3. The Division may adopt regulations to carry out the provisions of this section.

Sec. 5. The expenses of the examination or investigation of an appraiser pursuant to section 4 of this act must be borne by the person examined or investigated. Such expenses include only the reasonable and proper expenses of the Administrator, the employees of the Division and the examiners and assistants of the Division, including expert assistance and reasonable compensation as to such examiners and assistants incurred in the examination or investigation. The person examined or investigated shall promptly pay to the Division the expenses of the examination or investigation upon presentation by the Division of a reasonably detailed written statement thereof.

Sec. 6. All money received by the Division pursuant to section 5 of this act and all interest and income earned on such money must be deposited with the State Treasurer for credit to the State General Fund and:

1. Must be used to pay the compensation and other necessary and authorized expenses incurred by an employee, examiner, assistant or other representative of the Division in the examination or investigation of any

person required to pay, and making payment of, the expenses of the examination or investigation pursuant to section 5 of this act; and

2. May be expended for any other purpose authorized by the Legislature.

~~{Section 1.}~~ **Sec. 7.** NRS 645C.450 is hereby amended to read as follows:

645C.450 1. The following fees may be charged and collected by the Division:

Application for a certificate, license or registration card	\$100
Issuance or renewal of a certificate or license as a residential appraiser.....	~~{290}~~ 320
Issuance or renewal of a certificate as a general appraiser	~~{390}~~ 420
Issuance of a permit	115
Issuance or renewal of a registration card.....	190
Issuance of a duplicate certificate or license for an additional office	50
Change in the name or location of a business	20
Reinstatement of an inactive certificate or license.....	30
Annual approval of a course of instruction offered in preparation for an initial certificate or license	100
Original approval of a course of instruction offered for continuing education.....	100
Renewal of approval of a course of instruction offered for continuing education.....	50

2. The Division shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of:

(a) Any examination for a certificate or license, including any costs which are necessary for the administration of such an examination.

(b) Any investigation of a person's background.

Sec. 7.5. The Real Estate Division of the Department of Business and Industry and the Commission of Appraisers of Real Estate shall adopt the regulations required by this act on or before December 31, 2011.

Sec. 7.7. 1. To carry out the provisions of sections 2 to 6, inclusive, of this act, the Real Estate Administrator shall employ an investigator and an administrative assistant who are in the classified service of the State.

2. There is hereby appropriated from the State General Fund to the Real Estate Administration Account:

(a) For the 2011-2012 Fiscal Year the sum of \$80,880.

(b) For the 2012-2013 Fiscal Year the sum of \$105,787.

3. The money appropriated by subsection 2 must be expended to pay the salaries and related expenses of the positions authorized by subsection 1.

4. Any remaining balance of the appropriation made by paragraph (a) of subsection 2 must be transferred and added to the

money appropriated by paragraph (b) of subsection 2 and may be expended as that money is expended.

5. Any remaining balance of the appropriation made by subsection 2 must not be committed for expenditure after June 30, 2013, and must be reverted to the State General Fund on or before September 20, 2013.

~~{Sec. 2.}~~ Sec. 8. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 7.5, inclusive, of this act ~~becomes~~ become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2012 ~~for all other purposes.~~

3. Except as otherwise provided in subsection 4, section 7.7 of this act becomes effective on July 1, 2011.

4. Paragraph (b) of subsection 2 of section 7.7 of this act becomes effective on July 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.

Thank you, Mr. President. This bill brings us into compliance with the federal guidelines. We have added continuing education for appraisers. We have made a statement to upgrade the appraisers in this State. The Administrator for the Real Estate Division and the Appraisal Commission are in favor of what we are doing with this bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 525.

Bill read second time.

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

Amendment No. 878.

"SUMMARY—Requires the establishment of the Wildlife Trust Fund. (BDR 45-1213)"

"AN ACT relating to wildlife; requiring the Department of Wildlife to establish the Wildlife Trust Fund; authorizing the Department to accept any gift, donation, bequest or devise from any private source for the Wildlife Trust Fund; requiring the Director to report income and expenditures from the Wildlife Trust Fund to the Chief of the Budget Division of the Department of Administration, ~~and~~ the Interim Finance Committee, ~~and~~ and the Board of Wildlife Commissioners; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill requires the Department of Wildlife to establish the Wildlife Trust Fund for the purposes of receiving any gift, donation, bequest or devise from any private source for the Wildlife Trust Fund. The money in the Wildlife Trust Fund must be used either for the specified purpose of the donor who donated the money or, if the donor specified no purpose, then in the sound

discretion of the Director of the Department. This bill further establishes that the money in the Wildlife Trust Fund is private money and exempts the expenditure of money in the Wildlife Trust Fund from the provisions of the State Purchasing Act. Finally, this bill requires the Director to report the income and expenditures of the Wildlife Trust Fund to the Chief of the Budget Division of the Department of Administration, ~~and to the Interim Finance Committee,~~ **and the Board of Wildlife Commissioners.**

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

Section 1. Chapter 501 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Department shall establish the Wildlife Trust Fund. The Department may accept any gift, donation, bequest or devise from any private source for deposit in the Wildlife Trust Fund. Any money received is private money and not state money. All money must be accounted for in the Wildlife Trust Fund.

2. All of the money in the Wildlife Trust Fund must be deposited in a financial institution to draw interest or to be expended, invested and reinvested pursuant to the specific instructions of the donor, or if no such specific instructions exist, in the sound discretion of the Director. The provisions of NRS 356.011 apply to any accounts in financial institutions maintained pursuant to this section.

3. The money in the Wildlife Trust Fund must be budgeted and expended, within any limitations which may have been specified by particular donors, at the discretion of the Director. The Director may authorize independent contractors that may be funded in whole or in part from the money in the Wildlife Trust Fund.

4. The Director or the Director's designee shall submit semiannually to the Interim Finance Committee and the Commission a report concerning the investment and expenditure of the money in the Wildlife Trust Fund in such form and detail as the Interim Finance Committee determines is necessary.

5. A separate statement concerning the anticipated amount and proposed expenditures of the money in the Wildlife Trust Fund must be submitted to the Chief of the Budget Division of the Department of Administration for his or her information at the same time and for the same fiscal years as the requested budget of the Department submitted pursuant to NRS 353.210. The statement must be attached to the requested budget for the Department when the requested budget is submitted to the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to NRS 353.211.

6. The provisions of chapter 333 of NRS do not apply to the expenditure of money in the Wildlife Trust Fund.

Sec. 2. NRS 501.356 is hereby amended to read as follows:

501.356 1. Money received by the Department from:

- (a) The sale of licenses;
- (b) Fees pursuant to the provisions of NRS 488.075 and 488.1795;
- (c) Remittances from the State Treasurer pursuant to the provisions of NRS 365.535;

(d) Appropriations made by the Legislature; and

(e) All other sources, except money derived from the forfeiture of any property described in NRS 501.3857 or money deposited in the Wildlife Heritage Trust Account pursuant to NRS 501.3575 , ~~for~~ in the Trout Management Account pursuant to NRS 502.327 ~~for~~ ***or in the Wildlife Trust Fund pursuant to section 1 of this act,***

↪ must be deposited with the State Treasurer for credit to the Wildlife Account in the State General Fund.

2. The interest and income earned on the money in the Wildlife Account, after deducting any applicable charges, must be credited to the Account.

3. Except as otherwise provided in subsection 4, the Department may use money in the Wildlife Account only to carry out the provisions of this title and chapter 488 of NRS and as provided in NRS 365.535, and the money must not be diverted to any other use.

4. Except as otherwise provided in NRS 502.250 and 504.155, all fees for the sale or issuance of stamps, tags, permits and licenses that are required to be deposited in the Wildlife Account pursuant to the provisions of this title and any matching money received by the Department from any source must be accounted for separately and must be used:

(a) Only for the management of wildlife; and

(b) If the fee is for the sale or issuance of a license, permit or tag other than a tag specified in subsection 5 or 6 of NRS 502.250, under the guidance of the Commission pursuant to subsection 2 of NRS 501.181.

Sec. 3. This act becomes effective on July 1, 2011.

Senator Manendo moved the adoption of the amendment.

Remarks by Senator Manendo.

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

Thank you, Mr. President. This amendment adds the Board of Wildlife Commissioners as a recipient of the report that the Director of the Department of Wildlife must prepare concerning the investment and expenditures money in the Wildlife Trust Fund.

Amendment adopted.

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

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 304.

The following Assembly amendment was read:

Amendment No. 804.

"SUMMARY — ~~Provides for redistricting of election districts in Carson City and the Cities of Henderson, Reno and Sparks, contingent upon voter~~

~~approval.~~ **Revises provisions governing elections and officers in certain cities.** (BDR S-731)"

"AN ACT relating to ~~redistricting~~ **cities**; creating, contingent upon voter approval, a sixth ward for the City of Reno; requiring, contingent upon voter approval, that the candidates for Supervisor in Carson City and for Council Member in the City of Henderson, the City of Reno and the City of Sparks be voted upon in a primary or general election only by the registered voters of the ward that a candidate seeks to represent; **revising the requirements for serving as the City Attorney for the City of Sparks**; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

The existing Charter of the City of Reno divides the City into five wards, each of which is represented on the City Council by a Council Member. A sixth Council Member represents the City at large. (Reno City Charter §§ 1.050, 2.010) **Section 7** of this bill increases the number of wards in Reno to six, and **sections 8-10** of this bill replace the office of Council Member at large with the office of Council Member to represent the newly created sixth ward.

The existing Charters of the Cities of Reno and Sparks provide that the candidates for Council Member to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but in a general election, must be elected by the registered voters of the City at large. (Reno City Charter §§ 5.010, 5.020; Sparks City Charter §§ 5.010, 5.020) **Sections 9 and 10** of this bill amend the Charter of the City of Reno, and **sections 11 and 12** of this bill amend the Charter of the City of Sparks, to provide that all candidates for Council Member must be elected in a general election by only the registered voters of the ward that a candidate seeks to represent. The existing Charters of Carson City and the City of Henderson provide that the candidates for Supervisor and Council Member, respectively, must be elected by the registered voters of the City at large in both a primary and a general election. (Carson City Charter §§ 2.010, 5.010, 5.020; Henderson City Charter §§ 2.010, 5.010, 5.020) **Sections 1-3** of this bill amend the Charter of Carson City, and **sections 4-6** of this bill amend the Charter of the City of Henderson, to provide that all candidates for Supervisor and Council Member, respectively, must be elected in a primary or general election only by the registered voters of the ward that a candidate seeks to represent.

Sections 15-18 of this bill require Carson City and the Cities of Henderson, Reno and Sparks to place on the ballot for the 2012 general election the question of whether to amend their respective charters to provide that all candidates for Supervisor or Council Member, as appropriate, must be elected in a primary or general election by only the registered voters of the ward that a candidate seeks to represent.

The existing Charter of the City of Sparks provides that all elective officers, including the City Attorney, must be: (1) residents of the City

for at least 30 days before the end of the period for filing for office and for the duration of their term of office; and (2) registered voters within the City. (Sparks City Charter § 1.060) Section 10.5 of this bill revises these requirements for the City Attorney, requiring instead that the City Attorney be a resident of and registered to vote in Washoe County, rather than the City of Sparks.

Section 19 of this bill provides that the sections of this bill relating to ~~each~~ Carson City and the Cities of Henderson and Sparks become effective only if the voters of that City approve the ballot question required by this bill. Section 19 also provides that the sections of this bill relating to the City of Reno and the City Attorney for the City of Sparks become effective on July 1, 2011. Finally, section 19 provides that the sections of this bill relating to the City of Reno expire on June 30, 2015, if the voters of that City do not approve the ballot question required by this bill.

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

Section 1. Section 2.010 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 118, Statutes of Nevada 1985, at page 474, is hereby amended to read as follows:

Sec. 2.010 Board of Supervisors: Qualifications; election; term of office.

1. The legislative power of Carson City is vested in a Board of Supervisors consisting of five Supervisors, including the Mayor.

2. The Mayor must be:

(a) An actual and bona fide resident of Carson City for at least 6 months immediately preceding his election.

(b) A qualified elector within Carson City.

3. Each Supervisor must be:

(a) An actual and bona fide resident of Carson City for at least 6 months immediately preceding his election.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents, except that changes effected in the boundaries of a ward pursuant to the provisions of section 1.060 do not affect the right of any elected Supervisor to continue in office for the term for which he was elected.

4. All Supervisors, including the Mayor, ~~must be voted upon by the registered voters of Carson City at large and~~ shall serve for terms of 4 years.

Sec. 2. Section 5.010 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 100, Statutes of Nevada 1999, at page 271, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the date fixed by the election laws of this state for statewide elections, at which time there

must be nominated candidates for offices to be voted for at the next general election.

2. A candidate for any office to be voted for at any primary election must file a declaration of candidacy as provided by the election laws of this state.

3. *In an election that is held pursuant to this section:*

(a) All candidates for the office of Mayor , ~~{and Supervisor,}~~ and candidates for the office of Municipal Judge if a third department of the Municipal Court has been established, must be voted upon by the registered voters of Carson City at large.

(b) *A candidate for the office of Supervisor must be elected only by the registered voters of the ward that the candidate seeks to represent.*

4. If only two persons file for a particular office, their names must not appear on the primary ballot but their names must be placed on the ballot for the general election.

5. If in the primary election one candidate receives more than a majority of votes cast in that election for the office for which he is a candidate, his name alone must be placed on the ballot for the general election. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest numbers of votes must be placed on the ballot for the general election.

Sec. 3. Section 5.020 of the Charter of Carson City, being chapter 213, Statutes of Nevada 1969, as last amended by chapter 96, Statutes of Nevada 1997, at page 183, is hereby amended to read as follows:

Sec. 5.020 General election.

1. A general election must be held in Carson City on the first Tuesday after the first Monday in November 1970, and on the same day every 2 years thereafter, at which time there must be elected such officers, the offices of which are required next to be filled by election.

2. *In an election that is held pursuant to this section:*

(a) All candidates for the office of Mayor , ~~{and Supervisor,}~~ and all candidates for the office of Municipal Judge if a third department of the Municipal Court has been established, must be voted upon by the registered voters of Carson City at large.

(b) *A candidate for the office of Supervisor must be voted upon only by the registered voters of the ward that the candidate seeks to represent.*

Sec. 4. 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 Councilmen 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 Councilman 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 represents.

(c) A resident of the ward which he 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 Councilman to continue in office for the term for which he was elected.

4. All Councilmen, including the Mayor, ~~{must be voted upon by the registered voters of the City at large and}~~ shall serve for terms of 4 years.

5. The Mayor and Councilmen 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 Councilmen during the term for which they have been elected or appointed.

Sec. 5. 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 election.

1. A primary 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. *In an election that is held pursuant to this section:*

(a) All candidates for ~~{elective office}~~ *the offices of Mayor and Municipal Judge* must be voted upon by the registered voters of the City at large.

(b) *A candidate for the office of City Council Member must be elected only by the registered voters of the ward that the candidate seeks to represent.*

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary 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 is a candidate, he must be declared elected and no general election need be held for that office.

Sec. 6. 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. A general 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. *In an election that is held pursuant to this section:*

(a) All candidates for the office of Mayor ~~{,–Councilman}~~ and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) *A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that the candidate seeks to represent.*

3. 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.}~~ **4.** 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 successor has been elected and qualified.

~~{4.}~~ **5.** 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 successor has been elected and qualified.

~~{5.}~~ **6.** 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 successor has been elected and qualified.

Sec. 7. Section 1.050 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1365, is hereby amended to read as follows:

Sec. 1.050 Wards: Creation; boundaries.

1. The City must be divided into ~~{five}~~ **six** wards, which must be as nearly equal in population as can be conveniently provided. The territory comprising each ward must be contiguous, except that if any territory of the City which is not contiguous to the remainder of the City does not contain sufficient population to constitute a separate ward, it may be placed in any ward of the City.

2. The boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. The boundaries of the wards:

(a) Must be changed whenever the population, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, in any ward exceeds the population in any other ward by more than 5 percent.

(b) May be changed to include territory that has been annexed, or whenever the population in any ward exceeds the population in another ward by more than 5 percent by any measure that is found to be reliable by the City Council.

Sec. 8. Section 2.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 327, Statutes of Nevada 1999, at page 1366, is hereby amended to read as follows:

Sec. 2.010 Mayor and City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of six Councilmen and a Mayor.

2. The Mayor and Councilmen must be qualified electors within the City. Each Councilman ***must be a resident of the ward from which he or she is*** elected ~~{from a ward}~~ **and** must continue to live in that ward for as long as he represents the ward.

3. The Mayor ~~{and one Councilman represent}~~ **represents** the City at large and one Councilman represents each ward. The Mayor and Councilmen serve for terms of 4 years.

4. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 9. Section 5.010 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 87, Statutes of Nevada 2001, at page 557, is hereby amended to read as follows:

Sec. 5.010 General elections.

1. ~~{On the Tuesday after the first Monday in November 1998, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, a Mayor, Councilmen from the second and fourth wards, a Municipal Judge and~~

a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 3 or 4.

~~—2. On the Tuesday after the first Monday in November 2000, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at the general election, Councilmen from the first, third and fifth wards, one Councilman at large and two Municipal Judges, all of whom hold office for a term of 4 years and until their successors have been elected and qualified pursuant to subsection 5 or 6.~~

~~—3.] On the Tuesday after the first Monday in November 2002, and at each successive interval of 6 years, there must be elected , [by the qualified voters of the City,] at the general election, a Municipal Judge, who holds office for a term of 6 years and until his successor has been elected and qualified.~~

~~[4.] 2. On the Tuesday after the first Monday in November 2002, and at each successive interval of 4 years, there must be elected , [by the qualified voters of the City,] at the general election, a Mayor, Councilmen from the second and fourth wards, and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified .~~

~~[5.] [pursuant to subsection 5.]~~

~~3. On the Tuesday after the first Monday in November 2004, and at each successive interval of 6 years, there must be elected , [by the qualified voters of the City,] at the general election, three Municipal Judges, all of whom hold office for a term of 6 years and until their successors have been elected and qualified.~~

~~[6.] 4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected , [by the qualified voters of the City,] at the general election, Councilmen from the first, third and fifth wards , [and one Councilman at large,] all of whom hold office for a term of 4 years and until their successors have been elected and qualified .[.] pursuant to subsection 5.~~

~~5. *On the Tuesday after the first Monday in November [2014,] 2012, and at each successive interval of 4 years, there must be elected, at the general election, [a Mayor,] Council Members from the [second, fourth] **first, third, fifth and sixth wards, [and a City Attorney,] all of whom hold office for a term of 4 years and until their successors have been elected and qualified.***~~

~~6. *In an election held pursuant to this section:*~~

~~(a) *A candidate for the office of City Council Member must be elected only by the registered voters of the ward that the candidate seeks to represent.*~~

~~(b) *Candidates for Mayor, Municipal Judge and City Attorney must be elected by the registered voters of the city at large.*~~

Sec. 10. Section 5.020 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 376, Statutes of Nevada 2005, at page 1438, is hereby amended to read as follows:

Sec. 5.020 Primary elections; declaration of candidacy.

1. A candidate for any office to be voted for at an election must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be deposited to the credit of the General Fund of the City.

2. If for any general election, there are three or more candidates for any office to be filled at that election, a primary election for any such office must be held on the date fixed by the election laws of this State for statewide elections, at which time there must be nominated candidates for the office to be voted for at the next general election. If for any general election there are two or fewer candidates for any office to be filled at that election, their names must not be placed on the ballot for the primary election but must be placed on the ballot for the general election.

3. In the primary election:

(a) The names of the two candidates for Municipal Judge, City Attorney or a particular City Council seat, as the case may be, who receive the highest number of votes must be placed on the ballot for the general election.

(b) ~~{Candidates}~~ *A candidate for the office of City Councilman {who represent a specific ward} must be voted upon only by the registered voters of {that ward.} the ward that the candidate seeks to represent.*

(c) Candidates for Mayor ~~{and Councilman at large}~~, *Municipal Judge and City Attorney* must be voted upon by ~~{all}~~ *the* registered voters of the City ~~{~~

~~—4. The Mayor and all Councilmen must be voted upon by all registered voters of the City at the general election.} at large.~~

Sec. 10.5. Section 1.060 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 394, is hereby amended to read as follows:

Sec. 1.060 Elective officers: Qualifications; salaries.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) Five members of the Council.

(c) A City Attorney.

(d) Municipal Judges, the number to be determined pursuant to section 4.010.

2. ~~{All}~~ **Except as otherwise provided in subsection 4, all** elective officers of the City must be:

(a) Bona fide residents of the City for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.

(b) Residents of the City during their term of office, and, in the case of a member of the Council, a resident of the ward the member represents.

(c) Registered voters within the City.

3. No person may be elected or appointed as a member of the Council who was not an actual bona fide resident of the ward to be represented by him for a period of at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, or, in the case of appointment, 30 days immediately preceding the day the office became vacant.

4. The City Attorney must be ~~for~~ :

(a) A bona fide resident of Washoe County for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.

(b) A resident of Washoe County during his or her term of office.

(c) Registered to vote within Washoe County.

(d) A licensed member of the State Bar of Nevada.

5. Each elective officer is entitled to receive a salary in an amount fixed by the City Council. At any time before January 1 of the year in which a general election is held, the City Council shall enact an ordinance fixing the initial salary for each elective office for the term beginning on the first Monday following that election. This ordinance may not be amended to increase or decrease the salary for the office of Mayor, City Councilman or City Attorney during the term. If the City Council fails to enact such an ordinance before January 1 of the election year, the succeeding elective officers are entitled to receive the same salaries as their respective predecessors.

Sec. 11. Section 5.010 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 52, Statutes of Nevada 2005, at page 104, is hereby amended to read as follows:

Sec. 5.010 General elections.

~~1. [On the Tuesday after the first Monday in June 2001, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the first, third and fifth wards, a Municipal Judge for Department 1 and a City Attorney, all of whom hold office until their successors have been elected and qualified, pursuant to subsection 3 or 4.~~

~~—2. On the Tuesday after the first Monday in June 2003, there must be elected by the registered voters of the City, at a general municipal election, Council members to represent the second and fourth wards, a Mayor and a Municipal Judge for Department 2, all of whom hold~~

office until their successors have been elected and qualified, pursuant to subsection 5 or 6.

~~—3. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected, {by the registered voters of the City,} at the general election, Council members to represent the first, third and fifth wards and a City Attorney, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.~~

~~{4. On the Tuesday after the first Monday in November 2004, and at each successive interval of 4 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 4 years and until his successor has been elected and qualified, pursuant to subsection 7.~~

~~—5. 2. On the Tuesday after the first Monday in November 2006, and at each successive interval of 4 years, there must be elected, {by the registered voters of the City,} at the general election, Council members to represent the second and fourth wards and a Mayor, all of whom hold office for a term of 4 years and until their successors have been elected and qualified.~~

~~{6. 3. On the Tuesday after the first Monday in November 2006, and at each successive interval of 6 years, there must be elected, {by the registered voters of the City,} at the general election, a Municipal Judge for Department 2, who holds office for a term of 6 years and until his successor has been elected and qualified.~~

~~{7. 4. On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected, {by the registered voters of the City,} at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.~~

~~{8. All candidates at}~~

5. *In an election that is held pursuant to this section :*

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large.

(b) A candidate for the office of City Council Member must be voted upon only by the registered voters of the ward that the candidate seeks to represent.

Sec. 12. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. *At an election that is held pursuant to this section:*

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the

City at large. ~~{Candidates to represent a ward as a member of the City Council}~~

*(b) A candidate for the office of City Council Member must be voted upon **only** by the registered voters of the ward ~~{to be represented by them.}~~ **that the candidate seeks to represent.***

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 13. The City Council of the City of Reno shall, not later than ~~{July}~~ **October 1, 2013, 2011**, establish the boundaries of the ward created by the amendatory provisions of section 7 of this act, which must be designated the sixth ward, and change the boundaries of the first through fifth wards to comply with the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 7 of this act.

Sec. 13.5. The City Council of the City of Reno shall, not later than October 1, 2015, change the boundaries of the first through fifth wards to comply with the expiration by limitation of the provisions of section 1.050 of the Charter of the City of Reno, as amended by section 7 of this act.

Sec. 14. Notwithstanding the amendatory provisions of sections 8 and 9 of this act, a Council Member of the City of Reno who holds office on July 1, ~~{2013,}~~ **2011**, shall:

1. If elected or appointed to represent a ward, continue to represent that ward for the remainder of his or her term of office.

2. If elected or appointed to represent the City at large, be deemed to represent only the ward created by the amendatory provisions of section 7 of this act, **upon the creation of that ward,** for the remainder of his or her term of office.

Sec. 14.5. Notwithstanding the expiration by limitation of the amendatory provisions of sections 8 and 9 of this act, a Council Member of the City of Reno who holds office on July 1, 2015, shall:

1. If elected or appointed to represent the first through fifth ward, continue to represent that ward for the remainder of his or her term of office.

2. If elected or appointed to represent the sixth ward, be deemed to represent the City at large for the remainder of his or her term of office.

Sec. 15. The Board of Supervisors of Carson City shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of Carson City be amended to provide for a ward system for the election of Supervisors, providing that each Supervisor must be elected in a primary or general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 16. The City Council of the City of Henderson shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of the City of Henderson be amended to provide for a ward system for the election of Council Members, providing that each Council Member must be elected in a primary or general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 17. The City Council of the City of Reno shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of the City of Reno be amended to provide for a ward system for the election of Council Members, providing that each Council Member must be elected in a general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 18. The City Council of the City of Sparks shall place on the ballot for the general election to be held on November 6, 2012, a question in substantially the following form:

Shall the Charter of the City of Sparks be amended to provide for a ward system for the election of Council Members, providing that each Council

Member must be elected in a general election by only the registered voters of the ward that he or she seeks to represent?

Sec. 19. 1. This section and sections 15 to 18, inclusive, of this act become effective upon passage and approval.

2. **Sections 7 to 10.5, inclusive, 13 and 14 of this act become effective on July 1, 2011.**

3. Sections 1, 2 and 3 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 15 of this act vote affirmatively on the question.

~~3. 4.~~ Sections 4, 5 and 6 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 16 of this act vote affirmatively on the question.

~~4. Sections 7 to 10, inclusive, 13 and 14 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 17 of this act vote affirmatively on the question.~~

5. Sections 11 and 12 of this act become effective on July 1, 2013, only if a majority of the voters voting on the question placed on the ballot pursuant to section 18 of this act vote affirmatively on the question.

6. Sections 7 to 10, inclusive, of this act expire by limitation on June 30, 2015, unless a majority of the voters voting on the question placed on the ballot pursuant to section 17 of this act vote affirmatively on the question.

7. Sections 13.5 and 14.5 of this act become effective on July 1, 2015, only if a majority of the voters voting on the question placed on the ballot pursuant to section 17 of this act disapproves the question.

Senator Parks moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 304.

Motion carried.

Bill ordered transmitted to the Assembly.

REPORTS OF CONFERENCE COMMITTEES

Mr. President:

The Conference Committee concerning Senate Bill No. 264, consisting of the undersigned members, has met, and reports that:

It has agreed to recommend that Amendment No. 636 of the Assembly be concurred in.

It has agreed to recommend that the bill be further amended as set forth in Conference Amendment No. 2, which is attached to and hereby made a part of this report.

Conference Amendment.

"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 ~~to~~, *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.*

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) 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;~~

(c) How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients;

(d) For each hospital, the total number of patients discharged, the average length of stay and the average billed charges, reported ~~for the 50 most frequent~~ 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) ***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***

(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 ; ~~for 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 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 for** , **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.

SHEILA LESLIE

PEGGY PIERCE

RUBEN J. KIHUEN

SCOTT HAMMOND

BEN KIECKHEFER

TERESA BENITEZ-THOMPSON

Senate Conference Committee

Assembly Conference Committee

Senator Leslie moved that the Senate adopt the report of the Conference Committee concerning Senate Bill No. 264.

Motion carried by a constitutional majority.

RECEDE FROM SENATE AMENDMENTS

Senator Breeden moved that the Senate recede from its action on Assembly Bill No. 53.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 77, 233, 361; Senate Resolution No. 5; Assembly Bills Nos. 82, 225, 229, 337, 452.

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 Amalia A. Serrano and Jaime Serrano.

On request of Senator Kihuen, the privilege of the Floor of the Senate Chamber for this day was extended to Ramir Hernandez.

On request of Senator McGinness, the privilege of the Floor of the Senate Chamber for this day was extended to Amy Tarkanian.

On request of President Krolicki, the privilege of the Floor of the Senate Chamber for this day was extended to Karen Chen and Claire Lo.

Senator Wiener moved that the Senate adjourn until Saturday, June 4, 2011, at 9 a.m.

Motion carried.

Senate adjourned at 6:55 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: DAVID A. BYERMAN
Secretary of the Senate